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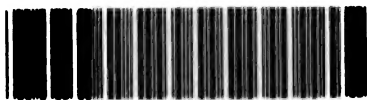
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SELECT PRIVATE ORATIONS  
OF  
DEMOSTHENES.

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*PART II.*

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SELECT PRIVATE ORATIONS  
OF  
DEMOSTHENES

*PART II.*

CONTAINING

*PRO PHORMIONE, CONTRA STEPHANUM I. II.;  
NICOSTRATUM, CONONEM, CALLICLEM;*

*WITH INTRODUCTIONS AND ENGLISH  
COMMENTARY*

BY

JOHN EDWIN SANDYS, M.A.

FELLOW AND TUTOR OF ST JOHN'S COLLEGE, CAMBRIDGE;

*WITH SUPPLEMENTARY NOTES*

BY

F. A. PALEY, M.A.

EDITOR OF AESCHYLUS, ETC.



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*EDITED FOR THE SYNDICS OF THE UNIVERSITY PRESS.*

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1875.

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**Cambridge:**

**PRINTED BY C. J. CLAY, M.A.  
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TO MY PUPILS  
PAST AND PRESENT

**This Volume**

IS

DEDICATED.

*Idem et docenti et discenti  
debet esse propositum  
ut ille prodesse velit  
hic proficere.*



## PREFACE.

THE preparation of the present volume of selections from the Private Orations of Demosthenes has, amidst many interruptions, extended over several years, and occupied much of the little leisure available after the discharge of other duties. It may be regarded as only a partial and imperfect result of a series of special studies on Greek and Roman Rhetoric, undertaken in several courses of College lectures on selections from Lysias, Isocrates and Demosthenes, and also on the *Rhetoric* of Aristotle and the *Orator* of Cicero. My earliest interest in the Private Orations may be said to date from the time when it was my privilege as an undergraduate to attend, about ten years ago, a course of lectures by my friend Mr Moss, then Fellow and Lecturer of St John's College, and now Head-Master of Shrewsbury School. His selections included two of the six speeches edited in the present volume, the *Nicostratus* and the *Conon*; but, as the notes taken down from his lectures were too scanty to form even the basis of any attempt at



constructing a complete edition, my commentary on those speeches has been mainly the result of independent reading and research, though I gladly acknowledge the help that is due to his soundness of judgment on several points on which I have consulted him while revising my notes on the *Conon*. In the case of the *Nicostratus*, when my own commentary was nearly ready for the press, I had the further advantage of attending in the spring of 1874 some of Dr Kennedy's professorial lectures on the Private Orations. From the excellent translation of his brother Mr Charles Rann Kennedy I have here and there quoted a few extracts; and if I have now and then drawn attention to an apparently erroneous interpretation, I have done so with the consciousness that in each case it is only a trifling blemish in what is nearly perfect of its kind. Similarly, several questionable explanations, retained even in the latest edition of Liddell and Scott's *Lexicon*, have been duly pointed out in the course of my commentary, as it is only thus that a labourer in a limited field can offer any acknowledgement of his large indebtedness to their labours. The lexicography of Demosthenes cannot indeed be said to be at present in a completely satisfactory condition, as general lexicons have still to rely in a great measure on Reiske's *Index Graecitatis*, which, with the portion of his *Opus magnum* including his notes on the speeches in this

volume, was posthumously published exactly a century ago.

The volume opens with a speech on behalf of Phormio, in bar of a claim on the part of Apollodorus for the recovery of capital alleged to have been transferred to Phormio by Pasion, the father of Apollodorus. This is followed by two on behalf of Phormio's opponent Apollodorus, charging with false witness one of the deponents called on Phormio's side in the previous trial. These three speeches, though not actually delivered in the same lawsuit, virtually represent the arguments of the two opposite sides, and a comparison of their conflicting statements has an interest similar in kind, though different in degree, to that derived from reading the longer and more important orations of Demosthenes, *On the Embassy* and *On the Crown*, in contrast with those of his great rival Aeschines. The orations of Antiphon, the earliest of the Attic Orators, include indeed four *tetralogies*, or quartettes, of ingenious speeches written for the prosecution and the defence in cases of homicide, but his cases are merely imaginary, and the orations are intended as rhetorical exercises alone. The first three selections in this volume supply us with the only instance in all the remains of Attic oratory, where the legal issues raised on both sides in a suit of purely private interest, lie before us as they were actually presented to an Athenian tri-

bunal. Whether Demosthenes actually wrote for both sides is a vexed question, briefly discussed in the course of the Introductions; it is a question that has provoked a large number of dissertations, the titles of which I have recorded on a page devoted to a conspectus of the literature of the subject up to the present date. But the volume now published, while it happens to be the first English commentary on any of the selections included in it, is also the first attempt either in England or elsewhere to put together an edition of all the three speeches in question in their connexion with one another<sup>1</sup>. As compared with the work demanded by the second half of this volume, where I have been conscious of moving more freely over ground familiarised by more frequent reading of that portion with private pupils more than five years ago, and for public lectures at a later date, the task of writing the first half has proved a somewhat tedious one, owing partly to the necessity of constantly keeping in view all the nine speeches in which Phormio's opponent, Apollodorus, is more or less directly concerned, and of forming an opinion on the numerous points of

<sup>1</sup> Mr Penrose's handy volume (now out of print) contained the Speeches against *Aphobus*, *Onetor*, *Zenothemis*, *Apaturius*, *Phormio* (Or. 84, *πρὸς Φορμίωνα*), and *Lacritus*. The *Eubulides*, *Theocrines* and in *Neaeram* are the only private orations included in the learned edition of Demosthenes by Dr John Taylor (fellow of St John's Coll. from 1726 to 1752), printed at the Cambridge University Press in 1748 and 1757.

literary criticism and chronological detail involved in the controversy on the authorship of those orations.

Those who, after finishing the *pro Phormione*, do not care to study minutely the whole of the two speeches against Stephanus, ought, at the very least, to examine the vigorous attack on Phormio which extends from § 71 to § 82 of the first of those two speeches, and should also endeavour to obtain a connected view of the argument by reading consecutively the italicised abstracts inserted at suitable intervals in the course of the commentary. With the help of these abstracts the general reader, the barrister, for instance, who has not remembered all the Greek of his younger days, may perhaps, if tempted to dip into these pages, form some opinion of his own on the forensic oratory of Athens; but my more immediate object in this part of my work has been to obviate any occasion for unduly burdening the notes with those literal renderings which are always welcome to students of the less industrious sort, by supplying instead (as the occasion requires) either a free paraphrase or a condensed summary, which may legitimately lighten their labour without giving licence to their idleness.

The latter half of the volume includes the *Nicostratus*, which was delivered by the same speaker as the two orations against Stephanus, namely by Apollodorus, and also the *Conon*, which is certainly one of the most celebrated of the minor speeches of Demosthenes. To

these selections, both of which throw much light on the social life of Athens, I have added the *Callicles*, which, though less well known than the others, will be found one of the pleasantest, while it happens to be the shortest, of all the Private Orations.

The first volume of selections from Demosthenes, published by the University Press in 1874, included the speeches *contra Phormionem* (Or. 34), *Lacritum* (35), *Pantaenetum* (37), *Boeotum de nomine* (39), *Boeotum de dote* (40), and *Dionysodorum* (56). In the preface to that volume it has been already explained that the two volumes are a joint edition on the part of Mr Paley and myself, and I may here repeat that while Mr Paley was mainly responsible for the previous part, I am similarly responsible for all the Introductions and for nearly all the notes of the present, though I have had the advantage of receiving from him a careful revision of all the proof-sheets of my commentary, and a large number of supplementary annotations, many of which have been incorporated with my own, and duly acknowledged by being placed in square brackets and followed by his initial.

J. E. S.

October, 1875.

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CORRIGENDA.

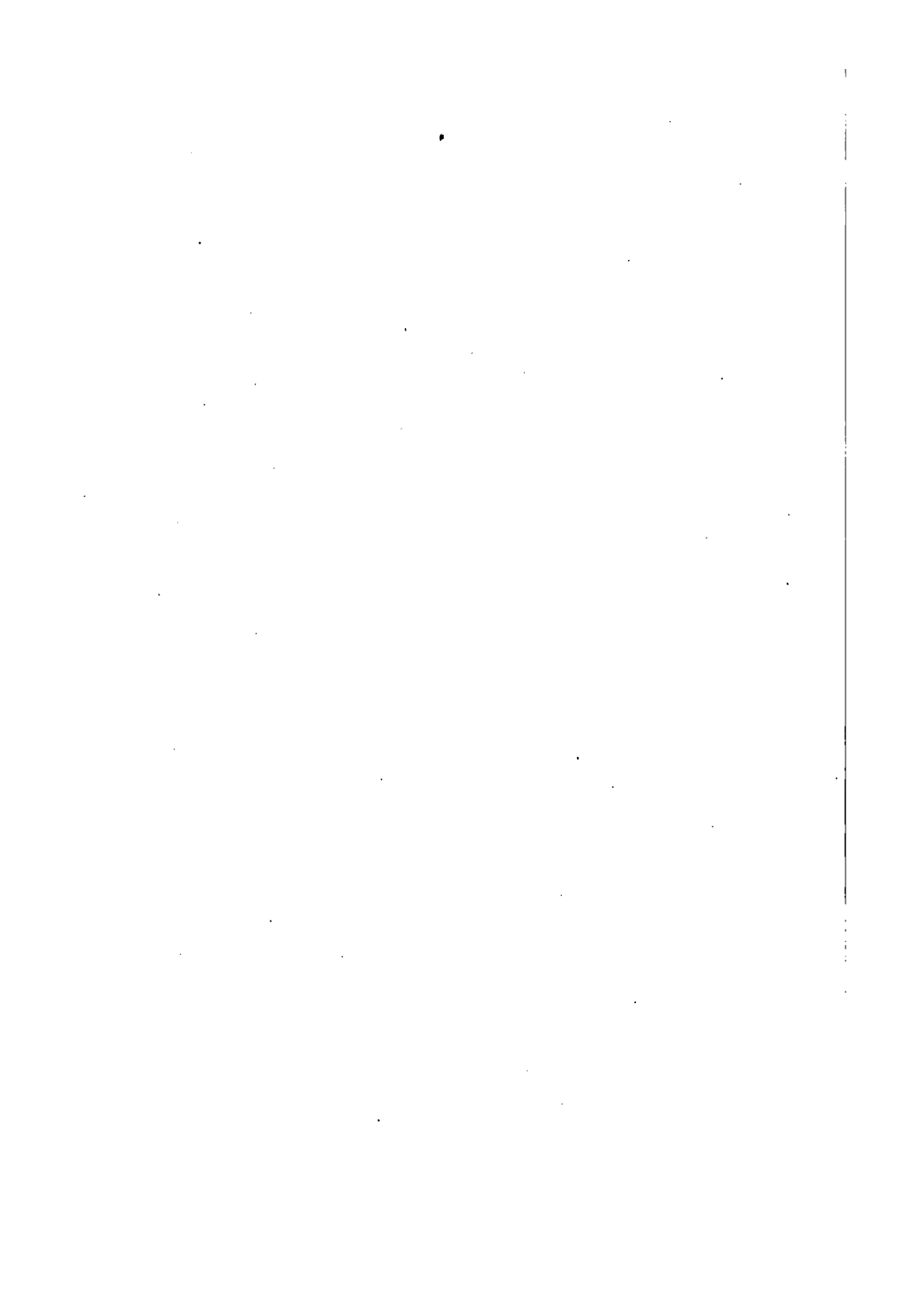
*In the text.*

p. 86, line 11, read *τεθνεώτας*.

p. 188, line 11, read *πέμποντος τούτου*.

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## SELECT LIST OF EDITIONS, DISSERTATIONS AND BOOKS OF REFERENCE.

### ON THE SELECTIONS INCLUDED IN THIS VOLUME.

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(1) *IMM. BEKKER. Oratores Attici.* Oxford, 1822, and Berlin, 1824. (2) \**J. G. BAITER and H. SAUPPE. Oratores Attici*, in one volume 4to, Zurich, 1850. (3) \**IMM. BEKKER. Demosthenis Orationes*; stereotyped edition, 8vo. Leipzig, 1851. (4) \**W. DINDORF. Demosthenis Orationes* [Leipzig, 1825, Oxford, 1846], *editio tertia correctior*, (Teubner) Leipzig, 1855, reprinted in subsequent years. (Vol. II. Part 2 includes Or. 36; and Vol. III. Part 1, all the remaining selections of the present edition).

#### VARIORUM EDITIONS.

(1) *G. H. SCHAEFER. Apparatus Criticus ad Demosthenem Vinc. Obscopi, Hier. Wolfii* [1572], *Jo. Taylori* [1748. 1757] et *Jo. Jac. Reiskii* [1770—1775] annotationes tenens. *Commodum in ordinem digestum aliorumque et suis annotationibus auctum* edidit *Godofredus Henricus Schaefer.* London, 1824-7, Vol. IV. pp. 590—618 (on Or. 36); Vol. V. pp. 167—214 (on Or. 45 and 46); pp. 346—407 (on Or. 53, 54 and 55). (2) *G. S. DOBSON, Oratores Attici, Graece cum notis variorum* XVI vols. London 1828. Vol. IV., Dem. Or. 39—59; Vol. V. *Reiskii Annotationes*, etc. Vol. XI. *Reiskii indices Graecitatis*. [Royal paper ed. published at 29. 9s. 0d.; a copy bought in 1868 for £1. 10s. 0d.]. (3) *W. DINDORF. Demosthenes ex recensione Gulielmi Dindorfii*, Oxford, Vol. VII. [1849] *Annotationes interpretum ad Or. XXVII—LXII.*

#### SCHOOL EDITION.

\**A. WESTERMANN. Ausgewählte Reden des Dem.*, part 3, pp. 111—135, *Rede gegen Konon* (Or. 54). Also contains *adv. Aristocratem* and in *Eubulidem*. Berlin (2nd ed. 1865).

#### DISSERTATIONS, &c.

(1) *C. D. BEELS. Diatribe in Dem. orationes I et II in Stephanum* (Or. 45 and 46), pp. 122, Leyden, 1823. (2) *IM. HERMANN. De tempore, quo orationes quae feruntur Demosthenis pro Apollodoro et Phormione scriptae sint, disputatio* (on Or. 36,



xvi SELECT LIST OF DISSERTATIONS, &c.

45, 46, 53 etc.) pp. 22. Erfurt, 1842. (3) A. WESTERMANN. *Untersuchungen über die in die Attischen Redner eingelegten Urkunden*, pp. 136 (esp. pp. 105—113 on the depositions in Or. 45 and 46). Leipzig, 1850. (4) W. HORNBOSTEL. *Ueber die vom Dem. in Sachen des Apollodor verfassten Gerichtsreden*, pp. 42. Ratzsburg, 1851. In the *Neue Jahrbücher für Philologie* 1854. 2. pp. 504—5 there is a suggestive review of this dissertation by C. REHDANTZ, who also gives a short account of Apollodorus in his *vitae Iphicratis Chabriae Timothei*, 1845, pp. 191—3, (where he promises a special dissertation of his own, which has unhappily never appeared). (5) IM. HERMANN. *Einleitende Bemerkungen zu Dem. paragraphischen Reden*, (Or. 36 etc.) pp. 23 Erfurt, 1853. (6) \*ARNOLD SCHAEFER. *Demosthenes und seine Zeit*. 3 vols. esp. Vol. III. Part 2, *Beilagen: 'die Reden in Sachen Apollodors'* (Or. 36, 45, 46, 53 etc.) pp. 130—199. 'Rede wider Konon' (Or. 54) pp. 247—252, 'gegen Kallikles' (Or. 55) pp. 252—7. Leipzig, 1856—8. (7) F. LORTZING. *De orationibus quas Dem. pro Apollodoro scripsisse fertur*. pp. 94. Berlin, 1863. (8) J. SIGG. *Der Verfasser neun angeblich von Dem. für Apollodor geschriebener Reden*. (Besonderer Abdruck aus dem sechsten Supplementbände der *Jahrbücher für classische Philologie*, pp. 396—434). Leipzig (Teubner), 1873.

LEXICOGRAPHY, ANTIQUITIES, &c.

(1) HARPOCRATION. *λέξεις τῶν δέκα ῥητόρων*, ed. W. Dindorf, Oxford, 1853: (also Pollux, ed. Bekker; and Hesychius, ed. Schmidt). (2) REISKE, *Indices Graecitatis in Dem.* 1775, (cura Schaefer, London, 1823; *indices Graecitatis in Oratores Atticos*, Mitchell (after Reiske), Oxford, 1828. (3) P. P. DOBREE. *Adversaria*; cura Scholefield, Cambridge, 1833 (ed. Wagner, Leipzig, 1875). (4) C. R. KENNEDY, *The Orations of Dem. translated with notes and dissertations*. London, Vol. IV. 1861; Vol. V. 1863. (5) R. DARESTE. *Les plaidoyers civils de Demosthène*, traduits en Français, avec arguments et notes par Rodolphe Dareste, Avocat au Conseil d'Etat. et à la Cour de Cassation. Vol. I. pp. 386; II. pp. 364 Paris (Plon), 1875.

(1) MEYER and SCHÖMANN. *Der Attische Process*. Halle, 1824. (2) BOECKH. *Die Staatshaushaltung der Athener*, 2nd ed. 1851. (*Public Economy of Athens*: 1st Germ. ed. transl. by Sir George Cornewall Lewis, London, 1828, 1842. 2nd Germ. ed. transl. by Lamb, Boston, U.S., 1857). (3) K. F. HERMANN. *Griechische Privatalterthümer*. Heidelberg, (2nd ed. by Starke), 1870. (4) TELFY, *Corpus Juris Attici*. Pesth, 1868. (5) C. R. KENNEDY and R. WHISTON. Articles in Dr. W. Smith's *Dict. of Antiquities*, London, 2nd ed. 1865. (6) E. CAILLEMER. Articles in *Dict. des Antiquités*, Daresbourg and Saglio, parts 1—4, A—B, pp. 640, Paris (Hachette), 1873—5.

## INTRODUCTION TO

OR. XXXVI

### ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

IN the early part of the fourth century B.C. there was a noted man of business at Athens, named Pasion. Originally a slave in the employment of a firm of bankers, by his industry and integrity he won the confidence of his employers, Antisthenes and Archestratus, and was rewarded by receiving his liberty from the latter and by succeeding both of them in their business<sup>1</sup>. In the *Trapeziticus* of Isocrates, he appears as defendant in a suit brought by the son of a trusted minister of Satyrus, prince of Pontus, and is charged, whether rightly or wrongly, with appropriating a sum of money deposited with him by the plaintiff, with destroying documents detrimental to his own interests, and with other sharp practice of a somewhat unscrupulous character. To examine the justice of these charges is no part of our present duty, nor indeed have we the data for arriving at any decisive result; suffice it to say that, in the language of his very opponent in that action, he is described as one of those bankers who enjoyed a wide connexion and had the management of large sums of money, and whose position as men of business had won them a general confidence<sup>2</sup>.

<sup>1</sup> Or. 36 § 43 sq.—On the *Trapezitae*, see Becker's *Chari- cles scene* IV; K. F. Hermann, *Griechische Privatalterthümer*

§ 48; and Büchsen-schütz, *Besitz und Erwerb im Griechischen Alterthume* pp. 500—510.

<sup>2</sup> Isocr. *Trapez.* § 2.

The speech composed by Isocrates probably belongs to the year B.C. 394, when Pasion, though no longer a slave, was only a resident alien (μέτοικος)<sup>1</sup>; at a subsequent date, on rising to the privileged position of enjoying as a denizen (ισοτελής) such civic rights as were not of an expressly political nature, he acquired some property in land, and distinguished himself by his public spirit, on one occasion in particular presenting the State with a thousand shields from his own manufactory, and five triremes equipped at his own expense<sup>2</sup>. In recognition of these services, Athens rewarded him with the rights of her citizenship<sup>3</sup>.

Among those who had business relations with him we find Athenians of high position like Timotheus, the celebrated general<sup>4</sup>, and Demosthenes the father of the orator<sup>5</sup>; his bank in the Peiraeus enjoyed, in the Euxine and elsewhere, a credit co-extensive with the commerce of Attica; even eight years after his death, Apollodorus, of whom we shall hear more anon, had only to declare himself as Pasion's son to be at once enabled to raise a loan in a foreign land<sup>6</sup>; and in later ages, in the imaginary letters of Alciphron, the Atticist who in the latter part of the second century of our era attempted to revive the memories of the times of Menander, we find the vulgar money-lender contrasted with a banker of blameless reputation, who bears the appropriate name of Pasion<sup>7</sup>.

<sup>1</sup> Isocr. *Trapez.* § 41.

<sup>2</sup> Or. 45 § 85.

<sup>3</sup> Or. 36 § 47, Or. 46 § 15, Or. 53 § 18, Or. 59 § 2 ψηφισμένου τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναίων εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἐκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν πόλιν.

<sup>4</sup> Or. 49 πρὸς Τιμόθεον ὑπὲρ χρόνως. Cf. note on Or. 36 § 53, p. 42.

<sup>5</sup> Or. 27 § 11.

<sup>6</sup> Or. 50 § 56 διὰ τὸ Πασίωνος εἶναι καὶ ἐκείνον ἐπεξενῶσθαι πολλοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλλάδι οὐκ ἠπόρουσιν, σπουδασθῆναι δαμείσασθαι.

<sup>7</sup> Alciphron III. 3. See note on Or. 45 § 70.—Mr Mahaffy in his *Social Greece* gives a slight sketch of Pasion, to illustrate

Pasion, in his old age, finding his eyesight failing him, and being only able to walk with difficulty up to Athens from his bank in the Peiræus<sup>1</sup>, four or five miles distant, transferred his business, including not only his bank but also his shield-manufactory, on lease to his managing clerk Phormio<sup>2</sup>, who, like his employer, was himself originally a slave<sup>3</sup> and obtained his freedom as the reward of honest service<sup>4</sup>. We read of him as a generous and energetic man of business, and his skilful management is said to have been the very saving of the property of his former master<sup>5</sup>. From the nature of the case, and from certain chronological considerations besides, it may be concluded that the lease to Phormio belongs to a date before, but not long before, Pasion's death in B.C. 370<sup>6</sup>. In B.C. 372, we find the latter still managing his business on his own account<sup>7</sup>, and we may therefore fix on B.C. 371 as the probable date of the lease. Pasion left behind him a widow, Archippe by name<sup>8</sup>, and two sons by her, the elder, Apollodorus, who was four-and-twenty years old at his father's death<sup>9</sup>, and the younger, Pasicles, who came of age eight years after (namely, in B.C. 362)<sup>10</sup>. In his will he provided that his widow should be married to Phormio, with a dowry of two talents (about £486), a dwelling-house valued at one hundred minæ (about £400), maid-servants, gold ornaments and all that formerly belonged to his wife<sup>11</sup>. By

the business habits of the Greeks, pp. 382—6.

<sup>1</sup> Or. 52 § 13 quoted in note on Or. 36 § 7.

<sup>2</sup> Or. 36 § 4, Or. 45 § 33.

<sup>3</sup> Or. 45 §§ 71—76.

<sup>4</sup> Or. 36 § 30.

<sup>5</sup> Or. 36 §§ 49—53.

<sup>6</sup> Or. 46 § 13 ἐπὶ Διονυσίου ἀρχόντος, Ol. 102, 3.

<sup>7</sup> Or. 49 § 29, 59. In the archonship of Alcisthenes, Ol. 102, 1 (Arnold Schaefer, *Dem. u. s. Zeit.*, III. 2 p. 132).

<sup>8</sup> Or. 45 § 74.

<sup>9</sup> Or. 36 § 22.

<sup>10</sup> Or. 36 §§ 10 and 37 compared together (A. Schaefer, *u. s.*).

<sup>11</sup> Or. 45 § 28 *ad fin.*

this will, Phormio also became one of the guardians to Pasion's younger son, Pasicles. He was to continue lessee of the bank and shield-manufactory until Pasicles came of age, and it was the father's wish that until that time the property should remain undivided. Owing, however, to the extravagance of the elder son, the guardians, acting in the interests of their ward, determined on a partition of all the property, with the exception of the bank and shield-manufactory leased to Phormio, half the rent of which was paid to Apollodorus, and half reserved for Pasicles, the minor<sup>1</sup>.

Apollodorus was at Athens in B.C. 370 and appears to have been present at his father's death-bed<sup>2</sup>, and some time after this, he was abroad in the public service as trierarch, probably in the year B.C. 368<sup>3</sup>. It was during his absence that, in accordance with his father's will, his mother was married to Phormio; the son, on his return home, resented this arrangement, and as the courts were not open at that time for private lawsuits, he took steps to bring a public indictment against Phormio, for criminal outrage on his mother (*γραφῆ ὕβρεως*). However, a reconciliation was brought about and the charge was not pressed<sup>4</sup>.

In B.C. 362, when Pasicles came of age, his guardians gave an account of their trust, which was acknowledged as correct, and Phormio's lease of the bank and manufactory terminated with a discharge given him on the part of Apollodorus from all liabilities under the lease. The elder brother then, having the prior choice, took the manufactory, leaving the banking business to his younger brother<sup>5</sup>. For a short time the brothers appear to have superintended their property in person; but not long

<sup>1</sup> Or. 36 §§ 8—10, § 34.

<sup>2</sup> Or. 49 § 42.

<sup>3</sup> Or. 45 § 3; 46 § 21. See

note 2 on p. lii. *infra*.

<sup>4</sup> Or. 45 §§ 3, 4.

<sup>5</sup> Or. 36 §§ 10, 11.

after, possibly a year subsequent to the partition, a new lease of the bank was granted to certain persons, who jointly paid each of the two brothers a talent a year (£486 in all), a sum less by two-thirds of a talent (£163) than the rent paid by Phormio<sup>1</sup>. This second lease was granted not by Pasicles alone, but by Apollodorus acting in conjunction with his younger brother, either to protect his inexperience, or (it is to be feared) to take advantage of it, since we observe that though the bank belonged to the younger brother, the elder had his reward in the receipt of half the rent paid by the new lessees<sup>2</sup>.

Phormio, meanwhile, being quit of his trust as guardian, and of his lease of the bank and manufactory, established a banking business on his own account, and, like his former master, Pasion, obtained a recognition of the general esteem in which he was held, by being presented with the citizenship. The date of this event was B.C. 361<sup>3</sup>. In the year B.C. 360, after a protracted service as trierarch in the northern Aegean and the neighbouring waters, Apollodorus returned to Athens to find his mother at death's door; she died six days after; but not before she had seen and recognised her son, though according to his own account she was unable to make such provision for him as she had intended<sup>4</sup>.

The mother's death was the signal for a fresh outbreak of the differences between Apollodorus and his step-father Phormio. The step-son put in a claim for 3000 drachmae (about £120), which was submitted to arbitrators, who established the claim and induced Phormio for quietness' sake to pay it to Apollodorus. The latter then gave Phormio a second release from all claims<sup>5</sup>.

<sup>1</sup> Or. 36 § 51 and 38.

<sup>2</sup> Or. 36 §§ 12, 13, 37.

<sup>3</sup> Or. 46 § 13, ἐνὶ Νικοφῆμον ἀρχοντος, Ol. 104, 4.

<sup>4</sup> Or. 50 § 60 quoted in note on Or. 36 § 14.

<sup>5</sup> Or. 36 §§ 15—17.

Phormio, however, had not yet seen the last of his litigious step-son; the latter, after numerous lawsuits with his father's debtors, in which he succeeded in recovering no less than 20 talents (£4860)<sup>1</sup>, was at last prompted, by pecuniary exigencies due to his extravagance, and by feelings of envy at Phormio's prosperity, to put in a claim about twenty years after the father's death for another sum of 20 talents, alleged to have been transferred to Phormio by the father as part of the working capital (*ἀφορμή*) of the business<sup>2</sup>.

The defendant expected that Apollodorus' contention, that Phormio must have received such capital, would be supported by presumptive proofs alone. He would argue that, without such a fund, it was incredible that Phormio, who was merely a liberated slave, should have managed the business and risen to opulence, while he himself, a rich man's son, had been reduced to penury (§ 43). To give stronger proof than these *a priori* probabilities had been made impossible, he would assert, by Phormio's having induced his wife to destroy Pasion's papers (§ 18); he would also denounce the lease and the will as forgeries, and would make out that it was only while Phormio promised him a high rent, that he kept silence on his claim, but as he had not fulfilled these promises, he was compelled to bring the case before the court (§ 33).

The arguments here anticipated by the defendant appear again in the first speech against Stephanus (Or. 45), a speech arising out of the present lawsuit. The case

<sup>1</sup> Or. 36 § 36.

<sup>2</sup> Why *twenty* talents were claimed does not appear, but we may conjecture that that amount arose out of the eleven talents mentioned in Or. 36 § 11, with the addition of interest. Phormio's lease lasted

for 8 years; 11 talents, at say 10 per cent. simple interest (not an uncommon rate at Athens), would with the interest amount to exactly 20 talents in 8 years (and a fraction of a year over,  $\frac{1}{11}$ ).

came in the first instance before an arbitrator, Tisias<sup>1</sup> by name, but was left undecided by him, and was accordingly brought before a public tribunal. The writer of the Greek argument, generally supposed to be Libanius, calls the suit a *δίκη ἀφορμῆς*, though it has been doubted whether there is any ancient authority for the existence of such a suit under that designation<sup>2</sup>. However, the phrase *ἀφορμὴν ἐγκαλεῖν* occurs in the speech itself (§ 12), referring to the plaintiff's claim to the capital of the bank.

To meet this claim, Phormio, instead of waiting for the plaintiff to bring his case before the court and then confronting his opponent with a direct denial and joining issue on the merits, preferred putting in a special plea in bar of action, a plea technically known in Greek law as a *παράγραφη*, shewing cause on the part of the defendant why the case should not be allowed to come on for trial at all. The two pleas urged on the defendant's behalf are (1) that the plaintiff had given him a discharge from the original lease of the bank and manufactory, and also a second discharge from a subsequent claim settled by arbitration (§§ 23—25); (2) that the plaintiff's suit contravened the statute of limitations, in which the term of five years was fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff was putting in a claim after the lapse of more than twenty years from the date of the lease (§ 26). To maintain these pleas is the object of the speech *pro Phormione*, though it is only a small portion of it that is directly concerned with them, such technical pleadings being naturally unpopular with juries, who regarded them as mere makeshifts, to gain

<sup>1</sup> Or. 45 § 10.

<sup>2</sup> Dareste, *les plaidoyers civils de Dem.* ii. 145: '*Est-il vrai que les Athéniens eussent créé une action spéciale pour les affaires de ce genre?*' But cf. Caille-

mer, *le contrat de prêt à Athènes*, p. 28—31, where *δίκη ἀφορμῆς* is distinguished from *δίκη ἀργυρίου*, *δίκη χρέους* and other terms, and accepted without suspicion as a term of Attic law.



time and evade the ends of justice. Hence a large part of the speech is devoted to arguing on the case itself, thus proving that the defendant's resort to special pleading was not due to any fear of meeting the plaintiff on the main issue. All this was of course irrelevant to the real question before the court, and counsel would hardly be permitted by any judge now-a-days to travel so widely out of the 'record.' In such a case, the defendant spoke first<sup>1</sup>; thus, while he was under the slight disadvantage of the *onus probandi*, he had on the other hand the benefit of the first hearing, and might at once produce a favourable impression of the strength of his case, which would put a stop to further litigation.

Phormio, being of foreign extraction and unpractised in public speaking, does not address the court in person (§ 1); his friends speak in his stead, and the case is opened on his behalf in an oration composed but almost certainly not spoken by Demosthenes<sup>2</sup>, which forms the first of the selections included in the present volume<sup>3</sup>.

<sup>1</sup> See note on Or. 36 Arg. line 25 *ad fin.*: The writer of the life of Demosthenes in the *Orations on the Crown* published by the Clarendon Press appears to have overlooked this in stating: 'it is clear that in the speech to which Demosthenes, in behalf of Phormion, composed a reply, Apollodorus had dwelt much on the fact of Phormion having been his father's slave' (p. xxxiii). Apollodorus did not address the court at all; he could not speak before the case for the special plea had been opened on the side of the defendant, and the jury would not listen to him after.

<sup>2</sup> The contrary might be in-

ferred from the language of Deinarchus *contra Dem.* § 111, (Δημοσθένους) λογογράφου καὶ μισθοῦ τὰς δίκας λέγοντος ὑπὲρ Κτησίππου καὶ Φορμίωνος (Cf. p. xxxviii). But the authority of Aeschines, in a speech delivered only seven years after the *pro Phormione*, supports the opinion expressed in the text, *de fals. leg.* § 185, ἔγραψας λόγον Φορμίωνι (cf. Or. 46 § 1 οἱ γράφοντες καὶ οἱ συμβουλευόντες ὑπὲρ Φορμίωνος). Lortzing, *Apoll.* p. 14, who agrees with A. Schaefer, *Dem. u. s. Zeit.* p. 169.

<sup>3</sup> It is unnecessary in this place to give a detailed account of the speech itself, as its contents are analysed in the italicised abstracts printed at con-

The speech contains several notes of time which approximately determine the date of its delivery. In § 26 we are told that 'more than twenty years' have elapsed since the lease granted by Pasion; in § 19 we find that 'eighteen years' have passed since the partition of the property effected by the guardians in consequence of the extravagance of Apollodorus; and in § 38 the same period is described in general terms as 'about twenty years.' Pasion died in B.C. 370 and the above indications point to the year B.C. 350 as the probable date of the speech. As we have already observed, the lease would be granted to Phormio before B.C. 370, and probably after B.C. 372, i.e. in B.C. 371. Thus 21 years would have passed since the grant of the lease. At first sight the term of eighteen years above mentioned might seem to point to B.C. 352<sup>1</sup>, but it appears certain that the partition of property was not effected *immediately* after the death of Pasion; as some allowance must be made for the time during which the extravagance of Apollodorus was running its course (§ 8), before the guardians came to the conclusion that a partition of the property was inevitable; and the term of eighteen years is reckoned, it will be observed, not from the death of Pasion but from the division of his estate.

Again, the speech of Apollodorus against Nicostratus, § 13, shews that after his return from his Sicilian trierarchy which on independent grounds may be placed in B.C. 368, he was not yet in possession of his share of the estate, as he was compelled to raise money on the security

venient intervals in the course of the commentary. The reader who desires a general view of the drift of the argument may do well to read all the abstracts consecutively before settling down to the perusal of the

Greek.

<sup>1</sup> This date is accepted by Droysen (*Zeitschrift für d. Alterthumswissenschaft* 1859 p. 930), Hornbostel (*Apoll.* p. 20), and A. Schaefer (u. s., p. 168—9).

of his house and to pledge some of his plate; we may therefore conclude that the partition was not earlier than B.C. 368, and the 'eighteen years' bring us once more to B.C. 350 as the date of the speech.

Further, the lease of Phormio lasted eight, that of the subsequent lessees, ten years; but it would be far from correct to assume that this points to the lapse of only eighteen years from the death of Pasion to the delivery of the speech, and consequently to B.C. 352 for the date of the latter; for (1) the previous lease began *before* the death of Pasion, (2) the subsequent lease does not appear to have followed immediately on the expiration of the first lease<sup>1</sup>, and (3) the second lease had terminated before the date of the speech<sup>2</sup>. The date B.C. 352, besides being open to the objection that the phrase 'more than twenty years' has to be explained away as a round number, in other words as equivalent to *less* than twenty years, only just allows time for the two leases, with no margin over, either for the interval between the first and second, or for the further interval after the second; while B.C. 350 is consistent with both these data<sup>3</sup>.

The only difficulty in our accepting this date arises from the reference to Callippus in § 53, as then alive in Sicily. Now Callippus left that island for Rhegium in the spring of B.C. 350 at the latest, and was killed in the same year. This would reduce us to the

<sup>1</sup> § 11 εὐθὺς ὡς ἀφείσαν του-  
τοι τῆς μισθώσεως νέμονται  
τὴν τράπεζαν κ.τ.λ., § 13 ἐμίσθω-  
σεν ὁ στερὸν Ξένωνι κ.τ.λ.

<sup>2</sup> § 14 ἐλευθέρου ἀφείσαν...καὶ  
οὐκ ἐδικάζοντο οὐτ' ἐκείνοις τὸτ'  
οὔτε τούτῳ.

<sup>3</sup> This date is supported by  
Fynes Clinton, Böhnecke (*For-  
schungen auf dem Gebiete der*

*Attischen Redner*, i. 43. 67),  
Imm. Hermann (*de tempore*,  
&c. p. 11 and *einleitende Be-  
merkungen zu Dem. paragraph.*  
*Reden* p. 16), Rehdantz (*Jahns  
neue Jahrb.* lxx. p. 505), Lort-  
zing (*Apoll.* p. 15—18), and  
Sigg (*Apoll. ap. Jahrb. f. class.*  
*Philol. Suppl. Bd. vi. Hft. 2*  
p. 406—8).

alternative of either supposing that the news of these events had not yet reached Athens, or resorting to the heroic remedy of striking out the words as spurious<sup>1</sup>. Otherwise, it may be worth while to suggest as the date the latter part of B.C. 351; this would involve our reckoning the term of 'more than twenty years' from the beginning of B.C. 371 to the end of B.C. 351 *inclusive*, and similarly the eighteen years from the partition would be counted inclusively from B.C. 368 to B.C. 351.

The speech is undoubtedly the genuine work of Demosthenes; this is proved not only by the testimony of Aeschines<sup>2</sup> but by the frequent quotations of ancient lexicographers and grammarians, and the internal evidence is equally conclusive. It holds a high place in his Private Orations; among the merits of its earlier portions may be noticed the closeness of its reasoning and the lucid arrangement of its argument, while its later portions are rendered interesting by the strong invective of the personal attack on the plaintiff and the dignified tone of the appeal to the court in favour of the defendant. All the points are supported by evidence, and except where the public services of the defendant are apparently unduly depreciated<sup>3</sup>, there is every evidence of fairness on the part of the speaker. It is a forcible oration, in which we clearly recognize the characteristic feature that gives Demosthenes the superiority over Lysias, the great master of clear narration, and over his own instructor Isaeus, the best lawyer of all the Attic orators, namely,

<sup>1</sup> This has been proposed by Sigg u. s., p. 408, who objects to them as breaking the symmetry of the sentence οὐχὶ Τιμομάχου κατηγορεῖς; οὐχὶ Καλλίπικου; οὐ πάλιν Μένωνος; οὐκ Αὐτοκλέους; οὐ Τιμοθέου; οὐκ ἄλλων πολλῶν; We here have six rhetorical questions divided in-

to a set of two beginning with οὐχὶ, and a set of four beginning with οὐ. The transition from the former to the latter is marked by πάλιν.

<sup>2</sup> *de fals. leg.* § 165, quoted in full on p. xxxvii.

<sup>3</sup> See §§ 39—42 with notes, and esp. A. Schaefer, u. s., p. 168.

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the ethical warmth of colouring, by which the dullest details are lit up with a fresh life and interest<sup>1</sup>.

The result was decisive; the court, according to the statement of Apollodorus himself, upheld the plea of the defendant, and refused to listen to any reply on the part of the plaintiff. More than four-fifths of the jury must have voted for the defendant, as we learn that the plaintiff was condemned to pay the *ἑπωβελία*, i.e. a sixth part of the twenty talents claimed, a fine amounting in this case to about £810. We are not surprised to learn that the plaintiff left the court in high dudgeon (Or. 45 § 6).

<sup>1</sup> *die ethische Wärme welche selbst einem nüchternen Stoffe Leben verleiht.* A. Schaefer, u.s., p. 168.

## INTRODUCTION TO

OR. XLV

ΚΑΤΑ ΣΤΕΦΑΝΟΥ

ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

THE effect of the verdict given in support of Phormio's special plea in bar of the action brought by Apollodorus, was to prevent the latter from raising the same issue again, except in an indirect manner. It was still open to him to bring an action for false evidence against the witnesses on whose testimony Phormio had relied; such an action was known as a *δίκη ψευδομαρτυριῶν*, and if the plaintiff made good his case against the accessories, he could next proceed against the principal who produced them, by an action for subornation of false witness (*δίκη κακοτεχνιῶν*<sup>1</sup>); and in the event of his succeeding in the latter, he might then bring forward afresh his original suit (in the present instance a *δίκη ἀφορμῆς*).

Apollodorus accordingly brought an action for false testimony against one Stephanus, who was called on Phormio's side in the previous trial. This witness deposed to neither of the points on which the special plea was raised; he was neither produced to prove the date of the original lease, shewing the lapse of the term fixed by the Athenian statute of limitations, nor did he give evidence to the release and quittance effected between

<sup>1</sup> Or. 49 § 56, Or. 47 § 1.

Apollodorus and Phormio; he simply attested a point which was, strictly speaking, irrelevant to the special plea and really belonged to the main issue. He was called, with others, to prove a legal challenge<sup>1</sup> given by Phormio to Apollodorus, demanding that, if the latter declined to admit that a document put in evidence by Phormio was a copy of Pasion's will, Apollodorus should himself open the original; he deposed that Apollodorus declined to open it, and further that the said copy was a counterpart of the original<sup>2</sup>.

The plaintiff denies that any such challenge had been made and declares that his father left no will. He contends that (1) had the challenge been given, there could have been no reason for his refusing to open the document (§§ 9—14); (2) it was unnecessary to demand his acknowledgment of the correctness of a copy, when according to his opponents the original might have been readily produced (§§ 15—19); (3) the terms of the deposition were false because it assumed that Pasion made the will alleged, whereas he made no will at all; its terms ought to have run, *not* 'the will of Pasion,' but 'the will Phormio asserts to have been left by Pasion' (§§ 24—26). His argument on these points is a singular combination of shallowness and subtlety<sup>3</sup>, as may be seen in further detail by referring to the italicised abstract of the somewhat difficult sections here referred to.

He next argues that the terms of the 'will' prove it was forged by Phormio in his own interests (§§ 27—28), that the 'will' was inconsistent with the 'lease,' that the latter was also a fabrication (§§ 29—36), and that the discharge pleaded by Phormio was false (§§ 40—42). In anticipation of the defendant's probable reply, that his

<sup>1</sup> Or. 86 § 7.

<sup>2</sup> Or. 45 § 10.

<sup>3</sup> nur einige schwache, ja ganz

nichtige *τεκμήρια*...; gegenzeugen... hat er nicht. Sigg, *Apoll.* p. 412.

responsibility is limited to two points only, (1) Phormio's giving the challenge, and (2) the plaintiff's refusal of it, the plaintiff insists on binding the defendant to the exact terms of his testimony (§§ 43—46). He further submits that, if in the reply any attempt is made to denounce his original action as fraudulent, all such reference to the past must be suppressed by the court as irrelevant to the issue before it (§§ 47—50). If the defendant urged it was not his own evidence, bearing as it did on the main issue, but that of those who gave witness to the special plea, that was fatal to the plaintiff in the former trial; the answer was, that the evidence on the main issue crippled his case on the special plea (§§ 51—52).

At this point the speaker passes off into petty personalities of a curious description, denouncing the defendant for giving false evidence against him, regardless of the family tie of Apollodorus' marriage with a first cousin of Stephanus, and thus transgressing what he calls by a rhetorical flourish the unwritten laws of natural affection (§§ 53—56); he declares and very inadequately proves, that a legal document on which he had relied in the former trial had been stolen by Stephanus (§§ 57—62); denounces him for truckling to prosperity, for selfishly disregarding the rights of the poor and the claims of the public on his ample resources (§§ 63—67), for his sour and sullen unsociability, and for his merciless extortion as a miserable money-lender (§§ 68—70).

Turning then from the nominal defendant Stephanus to his principal, Phormio, who is the real opponent in the present as in the previous lawsuit, he launches out into a vigorous invective against him, for his gross ingratitude towards the speaker's family who were the very founders of his fortunes (§§ 71—76), contrasts his own orderly life and public services with his opponent's immorality (§§ 77—80), charges him with appropriating money that



belonged to Pasion, from whom all his wealth had originally come. Born a barbarian and sold as a slave, he had yet had the audacity to criticize the antecedents of the plaintiff's family (§§ 80—82).

After an ungenerous and gratuitous insinuation, to account for his younger brother Pasicles taking Phormio's part (§§ 83—84), he turns to the jury, reminds them of his father's benefactions to the state, implores them to protect him from one who was once a slave to his family, and from that slave's creature Stephanus; and, while reminding them incidentally of some of the points on which he relied, concludes by claiming a verdict against the man who, by his false evidence for Phormio, had robbed him of his revenge in the previous trial (§§ 85—88).

The defendant Stephanus replied at considerable length<sup>1</sup>. The purport of his defence appears to have been very much what the plaintiff had anticipated in §§ 43—46. In particular, he contended that he was responsible for attesting to the challenge alone and not for any further details incidentally included in his evidence. The existence of the will had been attested by other witnesses than himself, and the court's acceptance of Phormio's special plea was due to *their* evidence on the main issue, and also to the evidence given by *others* on the plea itself, proving the original lease and the subsequent discharge.

<sup>1</sup> Or. 46 § 1.

# INTRODUCTION TO

OR. XLVI

ΚΑΤΑ ΣΤΕΦΑΝΟΥ

ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ B.

THE reply of Stephanus is followed by a second speech on the part of the plaintiff, Apollodorus, in which, in contrast to the presumptive proofs and the passionate declamation of his former effort, we find, in a far less lengthy and less ambitious form, little more than a series of technical arguments supported by quotations from such parts of the Athenian code as appeared to bear, however remotely, on the case in question.

He charges the defendant with having given 'hearsay evidence' and cites the law against it (§§ 6—8); declares that Phormio, under the mask of the defendant's deposition, has given evidence in his own cause, which is illegal (9—10); he even deduces the falsehood of the deposition from the material on which it was inscribed; instead of being written hurriedly on an ordinary wax-tablet to attest on the spot a *bona fide* challenge, it was drawn up in a more permanent form implying a deliberately fraudulent design (11). He attempts to prove that his father made no will at all, and quotes a law forbidding a man's making a will if he had male issue lawfully begotten (14), and further urges that his father was disabled from disposing of his property by his 'adoption' as an Athenian citizen—a legal quibble arising from the ambiguity of the term relating to adoption, which really refers to the family and not to the state, as the

plaintiff disingenuously implies; he also insinuates that his father was debarred from making a will by being under undue influence and of unsound mind (15—17); he further contends that his mother was technically an 'heiress,' and by law held in ward by her nearest relative, namely himself; that her marriage was therefore invalid, being made in his absence, without his consent and without any legal adjudication, and that Pasion's disposal of his wife by will was thus illegal (18—23); that the father's 'will,' if ever made, was vitiated by the fact that there were sons of full age now surviving (24); and that the defendant and Phormio had conspired to defeat the ends of justice (25—26). After a parting sally on Phormio for his disregard of the laws, and a final thrust at the defendant, defying him to shew how he could possibly have known that the document attached to his challenge was a copy of Pasion's will, which he had never seen, and after also asserting that no one ever had a copy made of his own will<sup>1</sup>, but kept it by him till his death, he concludes by asking the court to grant him the redress demanded by the claims of justice and the laws of Athens (27—29).

Thus the plaintiff assigns four legal reasons in support of the plea that Pasion's will was a forgery: (1) he was a citizen by 'adoption'; (2) his widow was an 'heiress' legally at the disposal of her son and not her deceased husband; (3) he had legitimate sons, both of whom were now grown up and their coming of age would invalidate any will on the part of the father; (4) he was of unsound mind. On these four points we have only to remark that the first rests on a verbal quibble<sup>2</sup>. (2) There is no indication elsewhere in other

<sup>1</sup> See Becker's *Charicles*, Scene ix, note 37.

<sup>2</sup> See note on § 14, and M.

*Dareste les plaidoyers civils de Dem. ii.* and p. 307—8, where the law is briefly discussed.

speeches of Apollodorus that his mother was technically an 'heiress,' indeed there is reason to suspect that she was not even a native of Athens at all (§ 23); besides, as regards the alleged invalidity of his mother's second marriage, the plaintiff had already in his former speech expressed his acquiescence (Or. 45 § 4). (3) The intention of the law was that if a father, having legitimate male issue, made a will independent of their interests, the terms of the will as affecting other persons were to become valid in the event of the male children dying before they came of age. Thus a father could not disinherit his lawful heir, but he was not prevented from making a will in which the rights of the heir were duly regarded<sup>1</sup>; and indeed, we find that Apollodorus and his younger brother had divided their father's estate between them, and that the former in particular had succeeded to a dwelling-house which was once his father's property. (4) The suggestion of lunacy is inconsistent with Apollodorus' own description of his father's last illness in another speech, by which it appears that he was then clear-headed enough to give his son a particular account of all the sums due to him from his numerous creditors<sup>2</sup>.

On the whole it is obvious that the plaintiff must have been conscious of having a very bad case indeed, and that to maintain it he was compelled to resort to the most contemptible subterfuges<sup>3</sup>.

The date of the two speeches must be placed shortly after that of the speech in the suit between Apollodorus and Phormio, i. e. very soon after B. C. 351 or 350.

<sup>1</sup> Lortzing, *Apoll.* p. 82—3; Dareste, u. s., II. p. 293.

<sup>2</sup> Or. 49 (Timoth.) § 42.

<sup>3</sup> Beide reden, ganz besonders aber die zweite, sind voll

bloszer sophismen und spiegelfechtereien so handgreiflicher und oft fast lächerlicher art, dass u. s. w. Sigg, *Apoll.* p. 412 and A. Schaefer, u. s., p. 177.

*On the authorship of the Two Speeches against Stephanus.*

We have seen that the authorship of the speech *pro Phormione* is undisputed; it is doubtless the genuine work of the great orator himself. Whether he is also the writer of both, or at any rate the first, of the two speeches against Stephanus, and of the others delivered by Apollodorus, which have come down to us among the works of Demosthenes<sup>1</sup>, is a vexed question, an exhaustive treatment of which would demand an elaborate treatise beyond the compass of the present introduction. All that can here be offered is a brief discussion keeping in view, and where necessary correcting and supplementing, the arguments suggested by previous writers on the subject, and tested by the results of an independent investigation.

In the speech *pro Phormione* the case is supported by two important documents; (1) the lease granted to Phormio, (2) the Will left by Pasion. In both the speeches against Stephanus (a witness, it will be remembered, in the former trial), the lease and the will are denounced as a fabrication and a fraud; more than this, while in the previous oration a warm eulogy is passed on the career of Phormio as a blameless man of business and as a generous citizen of irreproachable character, in the two latter the speaker avails himself of all the artifices of subtle insinuation, all the vehemence of unscrupulous invective, to paint his opponent's character in the darkest colours. The question arises whether the two latter speeches, or either of them, could have been written by the same person as the former.

Narrowing the enquiry for our present purpose to those speeches alone which Apollodorus delivered against Stephanus, we may in the first instance examine the *external evidence* (whether contemporary with Demosthenes or not) which may be adduced in support of the genuineness of the two speeches in question. In

<sup>1</sup> The speeches by Apollodorus (with the dates assigned to them by A. Schaefer) are Or. 52 *πρὸς Καλλιππον*, B.C. 369—8; Or. 53 *πρὸς Νικόστρατον*, after B.C. 368; Or. 49 *πρὸς Τιμόθεον ὑπὲρ χρόους*, B.C. 362; Or. 50, *πρὸς Πολυκλέα περὶ τοῦ ἐπὶ τριηραρχήματος*, about B.C. 357; Or. 45 and 46, *κατὰ Στεφάνου ψευδομαρτυριῶν α' and β'*,

about B.C. 351; Or. 59 *κατὰ Νεαίρας*, after B.C. 343;—Or. 47, *κατ' Εὐέργου καὶ Μνησιβοῦλου* was delivered after B.C. 356, but not by Apollodorus, though it was probably written by the same orator as most, if not all of the above-mentioned speeches, and possibly by Apollodorus himself.

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the first place we must set a passage in Aeschines in which he denounces the orator as a traitor, charges him with writing for a pecuniary consideration a speech for Phormio the banker and with shewing this speech to Apollodorus, who was then prosecuting Phormio on a charge imperilling his status as a free man<sup>1</sup>. Here it will be remarked that the description of the trial is vague, and the penalty, to which Phormio would have been liable, much exaggerated; but it is more important to notice that Aeschines says nothing of Demosthenes *writing* a speech for Apollodorus either in the lawsuit with Phormio, or in his subsequent suit against Stephanus; if Aeschines is speaking the truth, then at the worst all that he says is, that, in his opinion, Demosthenes acted in bad faith by betraying his client's interests and allowing his opponent to become informed of the arguments which would be brought against him. But it may be noticed that this course is not necessarily inconsistent with good faith on the part of Phormio's friend, as the orator may have seen no reason for concealing his client's case from his opponent,—especially as the speech on that client's behalf would be the opening speech, and the case would be in no danger of being damaged by any previous attack on the part of the plaintiff. Demosthenes may have been anxious to reconcile the parties and, if possible, to put an end to a quarrel which was threatening the disruption of Pasion's family; and so strong was his client's position, that to inform Apollodorus of the case against him and even to shew him the very manuscript itself with the friendly advice to drop the lawsuit, would have been no detriment to Phormio's interests<sup>2</sup>.

Considering all the calumnies raked up by Aeschines against his great rival in the two orations *de falsa legatione* and *contra*

<sup>1</sup> Aeschines, *de falsa legatione* § 165, τὸν δ' ἀγαθὸν σύμβουλον τί χρὴ ποιεῖν; οὐ τῇ πόλει πρὸς τὸ παρὸν τὰ βέλτιστα συμβουλεύειν; τὸν δὲ ποτηρὸν κατήγορον τί χρὴ λέγειν; οὐ τοὺς καιροὺς ἀποκρυπτόμενον τῆς πράξεως κατηγορεῖν; τὸν δὲ ἐκ φύσεως προδότην πῶς χρὴ θεωρεῖν; ἀρὰ γε ὡς σὺ τοῖς ἐντυγχάνουσι καὶ πιστεῦσαι κέχρησαι, λόγους εἰς δικαστήρια γράφοντα μισθοῦ τοῦτους ἐκφέρειν τοῖς ἀντιδίκους; ἐγραψας λόγον Φορμίωνι τῷ τρα-

πεζίτη χρήματα λαβὼν τοῦτον ἐξήρεγκας Ἀπολλοδώρῳ τῷ περὶ τοῦ σώματος κρύναντι Φορμίωνα. *Id. contra Ctesiphontem* § 173, περὶ δὲ τὴν καθ' ἡμέραν διαίταν τίς ἐστίν; ἐκ τριηράρχου λογογράφος ἀνεφάνη, τὰ πατρῶα καταγελᾶσθαι προέμενος ἄπιστος δὲ καὶ περὶ ταῦτα δόξας εἶναι καὶ τοὺς λόγους ἐκφέρων τοῖς ἀντιδίκους ἀνεπήδησεν ἐπὶ τὸ βῆμα.

<sup>2</sup> A. Schaefer, u. s., III. 2 p. 178, and Rehdantz there referred to.

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*Ctesiphontem*, we venture to think that, if he had had any ground whatever for asserting that Demosthenes actually wrote a speech for Apollodorus, and virtually against Phormio, though nominally against one of his witnesses only, he would certainly have seized his opportunity and made the very most of so damaging a fact. But he says no such thing; and even Deinarchus, another strong opponent of Demosthenes, makes no such charge against him, though he has an opening for so doing in a passage in which he refers to the orator's 'delivering' a speech for Phormio<sup>1</sup>.

Later writers, however, though less likely to be familiar with the facts, are bolder in their denunciations; in Plutarch's life of Demosthenes, we read that the orator 'is said to have written for Apollodorus his speeches against Phormio and Stephanus, for which he justly fell into disrepute, as he also wrote a speech for Phormio in his lawsuit against Apollodorus.' He adds, with a reminiscence perhaps of the trade of the orator's father, 'it was as bad as selling swords to both sides from the same manufactory'.

The insertion of the speeches against Stephanus among the works of Demosthenes may perhaps be accounted for by the conjecture that Callimachus, who, as head of the Alexandrine library, undertook the prodigious task of settling the canon

<sup>1</sup> Deinarchus *contra Demosth.* § 111 p. 108, εὐρήσετε... τοῦτον ἀντὶ λογογράφου καὶ μισθοῦ τὰς δίκας λέγοντος ἐπὶ Κτησίππου καὶ Φορμίωνος καὶ ἐτέρων πολλῶν πλουσιώτατον ὄντα τῶν ἐν τῇ πόλει. A recent editor of Deinarchus, Dr F. Blass, writes to me suggesting that the passage is interpolated. Deinarchus, he conjectures, wrote only καὶ μισθοῦ τὰς δίκας λέγοντος; had he wanted to enter into detail, he must have added 'Phormio the banker' and 'Ctesippus the son of Chabrias,' because these cases were by that time probably forgotten. The bare addition ἐπὶ Κτησίππου καὶ Φορμίωνος καὶ ἐτέρων πολλῶν is, he says, exactly what a grammarian would insert to remind his pupils of the speeches they

had read in the course of their studies.

<sup>2</sup> Plutarch, *Dem.* chap. 15, λέγεται δὲ καὶ τὸν κατὰ Τιμοθέου τοῦ στρατηγοῦ λόγον, ᾧ χρησάμενος Ἀπολλόδωρος εἶλε τὸν ἀνδρα τοῦ ὀφλήματος, Δημοσθένει γράψαι τῷ Ἀπολλοδώρῳ, καθάπερ καὶ τοὺς πρὸς Φορμίωνα καὶ Στέφανον, ἐφ' οἷς εἰκότως ἠδόξετο. καὶ γὰρ ὁ Φορμίων ἠγωνίζετο λόγῳ Δημοσθένους πρὸς τὸν Ἀπολλόδωρον, ἀτεχνῶς καθάπερ ἐξ ἐνὸς μαχαίροπωλίου τὰ κατ' ἀλλήλων ἐχειρίδια πωλοῦντος αὐτοῦ τοῖς ἀντιδικοῖς. (Cf. chap. 4, Δημοσθένει ὁ πατήρ... ἐπεκαλεῖτο μαχαίροποιός.) *Comp. Dem. et Cic.* c. 3, χρηματίσασθαι ἀπὸ τοῦ λόγου Δημοσθένει ἐπιψόγῳ λέγεται, λογογραφῶν κρύφα τοῖς περὶ Φορμίωνα καὶ Ἀπολλόδωρον ἀντιδικοῖς.

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of the Attic Orators<sup>1</sup>, may have been misled either by the passage of Aeschines above quoted, or by the partial resemblance of the first speech to the style of the orator, into supposing that Demosthenes himself was the writer; or again may have included them among his orations as illustrative of his genuine works. That there was once a time when Apollodorus himself was regarded as the writer of the orations spoken by him which have been handed down to us among the works of Demosthenes, may perhaps be fairly concluded from a *scholium* on the passage of Aeschines above referred to, noting 'from this it is clear that the speeches referring to the estate of Apollodorus are not written by him, but by Demosthenes'<sup>2</sup>. Thus, Plutarch's story of the duplicity of Demosthenes, which with slight variations is repeated by still later writers<sup>3</sup>, may have originated in a misunderstanding of the language of his enemy's accusation; the phraseology used by one of them in particular (Zosimus by name, a grammarian who, if we credit the conjecture attributing to him part of the *scholia* on Aeschines, may have actually written the *scholium* in question,) shows how easily, even before his time, Callimachus and Plutarch may have been misled by a careless expansion of the language of the orator's rival—language which we have little hesitation in regarding as the original source of the subsequent tradition<sup>4</sup>.

The argument from *internal evidence* is more intricate, and the style of all the orations delivered by Apollodorus has been discussed with much minuteness by several modern critics. Without entering, however, into undue detail on those speeches which

<sup>1</sup> Rehdantz ap. A. Schaefer, u. s., p. 317—322.

<sup>2</sup> Aesch. ed. Schultz, p. 311, ἐκ τούτου δηλον ὅτι καὶ οἱ περὶ τὴν οἰκίαν (ούσαν συνέειπεν Ἀ. Schaefer) Ἀπολλοδώρου λόγοι οὐκ Ἀπολλοδώρου ἀλλὰ Δημοσθένους. The rhetorician Tiberius, περὶ σχημάτων c. 14 (referred to by A. Schaefer), quotes from Or. 45 § 83, and introduces his citation with the name not of Demosthenes but of Apollodorus, καὶ πάλιν Ἀπολλοδώρου 'ἐγὼ γάρ—οὐκ οἶδα,' though he professes in c. 1 to confine himself to ὅσα παρὰ

Δημοσθένει κατανοήσαμεν. In c. 31 he begins an extract from Or. 36 § 52 with the words, ἐν τῷ ὑπὲρ Φορμίωνος πρὸς τὸν Ἀπολλοδώρου.

<sup>3</sup> Anonym. p. 155, Suidas Dem. c. 3, referred to by Lortzing, Apoll. p. 23.

<sup>4</sup> Zosimus vit. Dem. p. 149 B., λογογραφεῖν ἀρχόμενος καὶ εἰς τὰ ἰδιωτικά καὶ εἰς τὰ δημόσια καὶ πολλοὺς ἐκδοὺς λόγους πρὸς αὐτοῦς ἤλω ἀμφοτέροις λόγους ἐκδοὺς κατ' ἀλλήλων. He lived in the time of the Emperor Anastasius, A.D. 491—518.



are not included in the present volume, we may briefly state certain peculiarities of diction to which Arnold Schaefer, who, in his admirable work on the *Life and Times of Demosthenes*, was the first to treat the subject systematically, has specially drawn attention, as running through all the speeches delivered by Apollodorus, and distinguishing them from the genuine writings of Demosthenes<sup>1</sup>.

We find, then, a feebleness of expression shewing itself in repetitions of the same word within short intervals from one another<sup>3</sup>; this clumsiness is most noticeable in the case of the pronouns *οὗτος* and *αὐτός*<sup>4</sup>. Again, clause after clause begins with the same relative pronoun, or the same hypothetical particle<sup>5</sup>. Such carelessness of expression is naturally attended by looseness of rhythm; thus, tested by the frequency of *hiatus*, the speeches delivered by Apollodorus are inferior in composition to the certainly genuine speeches of Demosthenes, though an exception must be made in favour of the first speech against Stephanus<sup>6</sup>. Even this speech supplies instances of unrhythmical construction<sup>7</sup>, and examples of anacoluthon or bad writing; and in particular an awkward combination of participles may be noticed in the first as well as in the second oration<sup>7</sup>.

<sup>1</sup> A. Schaefer *Dem. u. s. Zeit*, III. 2. 184—199, *Der Verfasser der von Apollodor gehaltenen Reden* 1858. Since then, the subject has been elaborately discussed by F. Lortzing (1863) and J. Sigg (1873). For the full titles of their treatises, see p. xvi.

<sup>3</sup> Or. 45 § 4, *γυρομένου... γύρονται... ἐγύροντο*, *ib.* § 63, *συνέβαιναν ... βάλναν*. — Or. 46 § 28, *διαθῶν... διαθῶν... διατιθέμενος ... διατίθεται*. Similarly in § 2, *διατιθεμένῳ τῷ πατρὶ* is thrice repeated and *ὁ πατήρ διέθετο* twice. For other repetitions see §§ 3. 5. 8. 25.

<sup>8</sup> Or. 45 § 64, τοῦτω...τοῦτον  
τοῦτου...τοῦτου, § 86, ἐαυτὸν...  
τοῦτου...ἐαυτὸν...ταῦθ'...τοῦτου,  
and similarly § 34, § 83.—Or.  
46 § 21, οὗτος...αὐτὸν...αὐτοῦ  
τοῦτου...αὐτάς...ταῦθ', and § 6.  
But cf. Or. 36 §§ 12 and 42.

<sup>4</sup> Or. 45 § 49 οὐς...οὐς § 81, εἰ...εἰ...εἰtra...εἰ. Or. 46 § 23, εἰwep...εἰtra...εἰtra...εἰ μεν...εἰδῃ...εἰwep. τοῦwep though common in the genuine orations occurs 14 times at least in the 29 sections of Or. 46. 'Non negari potest vividioribus transgrediendi figuris, quibus D. excellit, carere nostras orationes' Lortzing p. 33.

<sup>5</sup> Benseler de hiatu p. 147, auctor alterius orationis (Or. 45) sermonem ita conformare solebat, ut vocalium concursus evitaretur et auctor alterius (Or. 46) ita ut hiatus non evitaretur.

<sup>6</sup> The passage referred to is in § 68, ἐγὼ γὰρ—προσελθεῖν πρῶτον, but the object is perhaps hypercritical. For anacoluthon, cf. Or. 45 § 3; for bad writing, Or. 46 § 17.

<sup>7</sup> Or. 45 § 83, Or. 46 § 13 (Lortzing p. 88, 89).

On passing to the question of the degree of mastery over the subject-matter and the general argument displayed in the various speeches, a distinction may be drawn between the earlier speeches on the one hand (e.g. those against Polyoles and Timotheus) where the narrative is monotonous and tedious, and the conclusion somewhat lame and feeble; and the two speeches against Stephanus, which shew signs of an improvement which Schaefer ascribes to the prolonged experience in litigation which the speaker had enjoyed since his earlier efforts. The general style of all these orations, differing as it does from that of Demosthenes, and bearing marks of a kind of consistency of its own, points (so Schaefer suggests) to one person as the writer of them all, and that person in all probability Apollodorus himself. He often appeared before the law-courts not only in private suits on his own account, but also in public causes; and, when he was a member of the Council, he made important proposals, and brought them before the general assembly of the people. Even assuming that he resorted to others for assistance in his private lawsuits, yet, as soon as he appeared in a more public character, he would find it necessary to speak for himself, and without some oratorical ability he could hardly have undertaken so many public causes. In the second speech against Stephanus we find him pluming himself on his cleverness<sup>1</sup>; and in that against Neaera he is called upon to address the court on behalf of a younger and less experienced speaker<sup>2</sup>. Apollodorus obviously laid himself out for attempting to play a prominent part at Athens; in the *pro Phormione* the jury are specially warned against his loud and impudent self-assertion<sup>3</sup>, and elsewhere we even find him apologising for his loudness of voice (as well as his hurried gait and ill-favoured countenance), as his misfortune and not his fault<sup>4</sup>.

<sup>1</sup> § 17 οὐδὲ ἐδόκουν ἐμὲ οὕτω θεινὸν ἔσεσθαι ὥστε ταῦτα ἀκριβῶς ἐξετάσαι.

<sup>2</sup> Or. 59 § 14, νέον ὄντα καὶ ἀπειρώς ἔχοντα τοῦ λέγειν, while Apollodorus πρεσβύτερός ἐστι... καὶ ἐμπειροτέρως ἔχει τῶν νόμων.

<sup>3</sup> Or. 36 § 61, κραυγὴ καὶ ἀναιδέεια.

<sup>4</sup> Or. 45 § 77. A. Schaefer understands the passage differently; after referring to the

loudness of voice attributed to Apoll. in Or. 36, he continues: 'Wenn dagegen Apollodor erklärt: Ich rechne mich selber, was Gesichtsbildung, raschen Gang und laute Rede betrifft, nicht unter die von der Natur glücklich begabten..., so will er damit nur ein selbstgefälliges prunken und stolzieren, von sich ablehnen ohne andeuten zu wollen, er sei Missgestalt

Such then is the general drift of the arguments, to which a brief sketch can only do imperfect justice, which lead Schaefer to the conclusion that the speeches against Callippus, Nicostratus, Timotheus, Polycles, Euergus and Mnesibulus; both of those in prosecution of Stephanus; and lastly, that in accusation of Neaera; which were delivered in the above chronological order between the years B.C. 369 and 343, were all composed by one person, who had a distinctive style of his own, and that person probably Apollodorus himself, with whose transactions no less than seven of these speeches are concerned.

The above conclusion is however open to criticism on the ground that it gives no adequate account of the incomparable superiority of the first speech against Stephanus, not only to the others delivered by Apollodorus, but in particular to the second speech in the very same trial. It is marked by a closeness of argument, and a forcibleness of invective, worthy of a far abler writer than the composer of the other speeches. It seems futile to explain this superiority by ascribing it to a gradual improvement in the speaker's rhetorical ability brought about by time and experience<sup>1</sup>, when the second speech is so meagre and lifeless, and when the last of the series, namely that in *Neaeram*, instead of shewing any advance as compared with the first speech against Stephanus is certainly inferior to it, and is characterized by a diffuseness and laxity of style, and by other faults besides. And again, the explanation that the second speech is only a *δευτερολογία*, and therefore inferior to the first, is hardly adequate. Hence, while we would ascribe the second to Apollodorus himself, and find in its constant quotations from the Athenian code of law a characteristic touch, reminding us of his legal learning as attested in the oration in *Neaeram*<sup>2</sup>, we are driven to the conclusion that in the first he had recourse to the assistance

träges Schrittes und schwachstimmig.' This misses the sense; the words when taken correctly as in the text, confirm the quotation from Or. 36, and do not appear even remotely to contradict it. Cf. Lysias Or. 16 §§ 18, 19.

<sup>1</sup> A. Schaefer, u. s., p. 191. Prof. Schaefer, in a kind communication received since I wrote the above, endeavours to

account for the greater polish of style shewn in Or. 45 by the fact that Apollodorus had the strongest motives for doing his very best in his opening speech.

<sup>2</sup> § 14, *ἐμπειροτέρος ἔχει τῶν νόμων*, and § 15 *ὅτι τῶν θεῶν καὶ τῶν νόμων καὶ τοῦ δικαίου καὶ ὑμῶν αὐτῶν*, compared with Or. 46 § 29 *ὅτι ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων*.

of an abler rhetorician than himself. There is scarcely sufficient proof that that rhetorician was Demosthenes, though it must be candidly admitted that of all the speeches delivered by Apollodorus, the one that on personal grounds is least likely to have been written by the composer of the oration for Apollodorus' opponent Phormio, is less far removed from the style of Demosthenes than any of the remainder, though again and again we have words never used by the orator himself in his undisputed writings<sup>1</sup>. In one passage indeed (§ 77) we have a close parallel with the *Pantaenetus* (§ 55)<sup>2</sup>, which seems to point to a common authorship, and if the latter speech is rightly assigned to the year 346 or thereabout, in other words, is placed *after* the speeches now under consideration, we can hardly explain the parallel except by the hypothesis of a common source, or else by the less probable assumption that Demosthenes, who was almost certainly the writer of the *Pantaenetus*, having heard or read the first speech against Stephanus, a speech directed virtually against his own client Phormio, borrowed from the phraseology of the latter oration, with which he was thus familiar. The Attic Orator, Hyperides, is known to have written one speech at least against Pasicles<sup>3</sup>, who, though a brother of Apollodorus, took the side of his opponent Phormio, and a conjecture has been half hazarded that it was for Apollodorus that those speeches were composed<sup>4</sup>; but there is no adequate reason for assigning the first speech against Stephanus to that orator, and a comparison with his four extant orations has led me to notice only one important coincidence of expression<sup>5</sup>.

On the whole, then, we may conclude that the second speech was not only delivered by Apollodorus, but probably composed by him, that the first was written for him, probably not by Demosthenes, but by some rhetorician unknown to us, whose assistance he was led to secure either by the pressure of his other engagements, or by a consciousness of the difficulty of the task that was

<sup>1</sup> § 14 *παροξυσμός*, § 19 *παράτασμα*, § 70 *δοκίμος* (in sense 'houseless'), § 85 *ἐπίχαρτος*, § 63 and § 65 *ὑποτίπτειν τι* (and also in Or. 59 Neaer. § 43).

<sup>2</sup> Or. 37 §§ 52, 55 quoted in note on Or. 45 § 77. The note involves an assumption that the *Pantaenetus* was earlier than the present speech; the reverse

is more likely to be correct.

<sup>3</sup> *κατὰ Πασικλέους* and *πρὸς Πασικλέα περὶ ἀντιδόσεως* Fragm. 137—140, p. 88—9 ed. Blass.

<sup>4</sup> Hornbostel, *Apoll.* p. 35.

<sup>5</sup> Or. 45 § 74 *ἀνεκδότους ἔνδον γηράσκειν*, compared with Hyperides III. 28. 4, *ἀνέκδοτον ἔνδον καταγηράσκειν* and III. 27. 22, *ἀγαμὸν ἔνδον καταγηράσκειν*.

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before him, and a mistrust of his own unaided ability to compose more than the legal rejoinder to the defendant's reply.

Those who attribute the speeches against Stephanus, or at least the first of them, to the authorship of Demosthenes, are bound to supply some reasonable motive for his changing sides after taking the part of Phormio against Apollodorus. If such a desertion to the enemy's camp was due to his discovery that the documents relied on in the first trial were forgeries, and that the deponents called to prove them were guilty of false witness, we cannot but think that Demosthenes, if he had been the writer of a speech immediately arising out of the former trial, would have been prompted to stronger expressions of indignation against the fraud practised on the jury on the previous occasion.

While we dismiss as irrelevant any attempt to try the alleged duplicity of Demosthenes by the standard of the professional etiquette of the English bar, and refrain from entangling our discussion with parallels suggested by questions of modern forensic casuistry, we may at any rate remark that, though we have no sufficient warrant for assuming that the orator was above pecuniary considerations, a certain sense of honour would probably have kept him from accepting a fee to write down the very side which he had but lately written up; and we may fairly conclude that such conduct was held dishonourable from the fact that even for divulging Phormio's case to his opponent, Demosthenes is, whether truly or falsely, charged by Aeschines with playing a traitor's part.

Again, it is urged that the first speech against Stephanus was written for a different trial to that on behalf of Phormio. This can hardly be regarded as an extenuating fact in favour of Demosthenes as the writer of the leading speech in both trials, since the second cause arose immediately out of the first, and there can be no question about the irreconcilable difference between the facts of the case as stated in the two orations, and the terms used in the one and the other in describing the character of Phormio. Even apart from motives of honour, the lower ground of expediency would, we presume, have sufficed to prevent Demosthenes from writing to defame the character of one who, by his opponent himself, was admitted to be a wealthy and prosperous man of business, and from supporting by preference the failing fortunes of an impoverished pettifogger.

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Such, then, at the very strongest, are the principal arguments that may be adduced against the genuineness of the two speeches against Stephanus. In conclusion, it is only fair to submit the only hypothesis on which it is not impossible that Demosthenes may after all be the real author of, at any rate, the first oration.

We have already seen that it is highly probable that the speech against Phormio belongs to the latter part of the year B.C. 351 (p. xxvii) and that the speeches against Stephanus may be fairly placed in the year B.C. 350<sup>1</sup>. It was a year in which the efforts of Athens to recover Euboea and to protect Olynthus placed her in a position of grave financial embarrassment. To meet this, Apollodorus, as a member of the senate, moved a decree that it should be submitted to the vote of the public assembly whether the surplus of the revenue should be paid to the Theoric fund for religious festivals, or applied to the expenses of the war. The proposal was approved by the senate and accepted by the public assembly; and the latter passed a decree appropriating the surplus to military purposes. Hereupon one Stephanus, who is not to be identified with the defendant in the speeches before us, impeached Apollodorus on the ground of his having brought forward an illegal decree; and he obtained a verdict, which led to the fine of one talent (£248) being inflicted on Apollodorus<sup>2</sup>. In this impeachment, Stephanus was probably the tool of Eubulus and the peace-party, and although there is no proof that Apollodorus acted at the suggestion of Demosthenes and the opposite party, the proposal of Apollodorus would doubtless meet with the orator's approval, as is clear from the financial policy cautiously propounded by the latter in the Olynthiac orations<sup>3</sup>, and, when it was too late, carried to a successful issue twelve years afterwards in the autumn of 339, only one year before the catastrophe of Chaeroneia.

It may therefore be questioned whether political motives may

<sup>1</sup> The *archon eponymus* of that year [Ol. 107, 3] was one Apollodorus, probably not the son of Pasion.

<sup>2</sup> Or. 59 §§ 3—8, esp. § 4, διαχειροτονῆσαι τὸν δῆμον εἶπε δοκεῖ τὰ περίεργα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι ἢ θεωρικὰ; Grote, *H. G.*, chap. 88; Curtius, *H. G.*, vol. v. p. 269 (Eng. Transl.); Hornbostel,

*Apoll.* p. 89, 40; A. Schaefer, *u.s.* III. 2, p. 180 and (for the chronology here followed) *ib.* p. 330. Some (e.g. Weil, *harangues de Dem.* p. 163) would place the Euboean expedition in B.C. 348, and Dr Blass would therefore place in that year the motion of Apollodorus and the delivery of Or. 45.

<sup>3</sup> Olynth. III. §§ 10—13.

not have induced Demosthenes to throw Phormio overboard and to support Apollodorus by writing the first speech against Stephanus. On this hypothesis it may be presumed that Apollodorus, having lost his lawsuit against Phormio owing to the powerful advocacy of Demosthenes, and being almost crushed by the consequences of his defeat, resorted to Demosthenes in the hope of recovering part at least of his resources, and proposed to run the risk of bringing forward his motion on the Theoric fund, on condition that the orator wrote him a speech against the obnoxious witness Stephanus.

A suggestive letter from Dr F. Blass of Königsberg (the author of several important works on Greek Oratory) has recently reached me, supporting this hypothesis and also shewing that the style of the first speech against Stephanus, apart from its general resemblance to that of Demosthenes<sup>1</sup>, coincides with it in a hitherto unnoticed peculiarity, that under certain limitations the orator generally avoids the juxtaposition of three or more short syllables, the exceptions being for the most part cases where the three syllables fall within the compass of a single word<sup>2</sup>. To examine the minute criterion here proposed is beyond my present purpose; it is sufficient to state (as my learned correspondent would obviously acknowledge), that while its absence may suggest the spuriousness of any given oration, its presence does not prove its genuineness; and it is enough to admit that the testimony of Harpocration is in favour of the Demosthenic authorship of the first speech<sup>3</sup> (though the value of that testimony is impaired by his attributing the second speech<sup>4</sup> to the same author); and that the parallelism of § 77 to a passage in the *Pantaenetus* already noticed is on the whole more easily explained by ascribing the first speech to Demosthenes than by any other hypothesis.

<sup>1</sup> Sigg. *Apoll.* p. 415—482.

<sup>2</sup> See p. 7 of his dissertation on the Letters ascribed to Demosthenes (just published, Oct.

1875).

<sup>3</sup> See quotations in notes on Or. 45 §§ 1, 15, 63, 66, 74, 80, 84.

<sup>4</sup> Cf. Or. 46 §§ 7, 11, 20.

## INTRODUCTION TO

OR. LIII

### ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ ΑΡΕΘΟΥΣΙΟΥ.

In this speech Apollodorus, the litigious son of Pasion, appears in support of a lawsuit arising out of an information laid against one Arethusius, for refusing to pay a fine due to the public chest. According to Athenian law, if a state-debtor concealed his effects, any citizen who discovered the fact was at liberty to draw up, and lay before the proper magistrate, a written statement containing an inventory or specification of the goods in question. The schedule thus drawn up was called an *apographê*, and this name was also given to the legal process in support of it. The informant, in the event of his making good his case, was entitled to the reward of three-fourths of the valuation (§ 2); if he failed, he was fined a thousand drachmae (about £40), and suffered a partial disfranchisement which prevented his appearing again as a prosecutor in a public cause (§ 1).

In the present instance, Apollodorus has handed in a specification in which two slaves are stated to be the property of Arethusius, and therefore liable to confiscation as a partial payment of his debt to the public treasury. Hereupon, a brother of Arethusius, named Nicostratus, puts in a claim to the slaves, and in the speech before us Apollodorus has to shew that the claim is false and that



the slaves are really the property of Arethusius. To prove this he calls evidence in §§ 19—21, and this is the only portion of the speech which is really relevant to the issue before the court, while the greater part up to this point is devoted to a narrative of the relations between Apollodorus and the two brothers, the object of which is to shew that the former had been most ungratefully treated by the latter, especially by Nicostratus, and that he was therefore, according to the Athenian notion, fully justified in revenging himself for his private wrongs by supporting a public information against his opponent. To prove the purity of his motives and to ingratiate himself with the court, he waives at the very outset his claim to the reward to which the informant in such cases is legally entitled.

In three of the speeches of Lysias, the promoter of an ἀπογραφή appears as a plaintiff; in the present speech we should probably consider Apollodorus as defendant and Nicostratus as plaintiff. In the three former cases, the speaker was not in possession of the effects disputed; in the latter he apparently was; his opponent Nicostratus puts in a claim against him, and the speech before us will, in that case, be a speech for the defence<sup>1</sup>.

Apollodorus states that Nicostratus was his neighbour in the country and formerly his trusted friend, that they had done kindly services for one another, and that in particular he had lent to Nicostratus, free of interest, a sum which he was himself compelled to raise on the security of part of his property. So far from being grateful, the borrower at once laid a plot to escape payment of his debt, made common cause with the opponents of Apollodorus, and induced a third party (one Lycidas) to bring against him a suit demanding that certain property should

<sup>1</sup> Caillemer, s.v. *Apographē*, *des Antiq. Lysias pro milite*, in Daremberg and Saglio's *Dict. de bonis Aristoph.*, c. *Philocr.*

be produced in court. Among those who were entered as witnesses to the delivery of the summons requiring him to appear in court, was Arethusius, a brother of Nicostratus, as above mentioned. The summons, it is alleged, was never served, consequently Apollodorus did not appear, and judgment went against him by default. Subsequently, Apollodorus prosecuted Arethusius for fraudulent citation (*ψευδοκληρίας γραφή*), which was regarded by Athenian law as a *criminal* offence, while on the contrary a witness in the cause itself as distinguished from one who attested a summons, was, if he gave false evidence, only liable to a *civil* action<sup>1</sup>. Before the case came on, Arethusius committed several acts of outrage against Apollodorus, laid waste his orchard and violently assaulted him, and when the case for fraudulent citation, and apparently for the other criminal acts, was brought before the jury, Apollodorus, under these aggravating circumstances, obtained a verdict against Arethusius with the greatest ease. Indeed, it was only owing to the entreaties of his brothers, with the acquiescence of the prosecutor, who was unwilling to face the odium which would ensue, that Arethusius escaped the penalty of death<sup>2</sup>, and had inflicted on him a fine of one talent (£243), for the payment of which his brothers became jointly responsible. Arethusius pleaded poverty and refused to pay; thereupon Apollodorus took the legal steps required (as above described) for the confiscation of his property, and in his specification claimed for the state, among other effects, two slaves as a partial security for the payment of the fine. Nicostratus resists this claim as

<sup>1</sup> Harpocration, quoted on p. 154, inaccurately uses the (possibly generic) term *δικη*, instead of *γραφή*, with reference to *ψευδοκληρία*.

<sup>2</sup> Boeckh, *Public Economy*, ed. 2, i. p. 502, note *g*, while

noticing that other criminal acts are involved, considers that the present passage proves that the punishment of death might be inflicted in a case of *ψευδοκληρία*, but this seems scarcely probable.

regards the slaves in question and claims them as his own property, though even in that case, as the speaker points out, they should be confiscated, since Nicostratus had guaranteed the payment of the fine and had failed to make good his guarantee. In §§ 22—25 Apollodorus describes the unsuccessful attempt of his opponents to entrap him into accepting a legal challenge, which would have committed him to a virtual admission that the slaves were private property; and in §§ 19—21 calls evidence to prove, that the person recognized as the responsible owner of the slaves was Arethusius, and not the present claimant Nicostratus.

Passing from the general contents of the speech as above sketched, we may turn to a brief consideration of its literary style and special peculiarities. We are at once struck by the disproportionate space of twenty sections devoted to purely preliminary details, as contrasted with the short compass within which lies the real gist of the case. The long account of the reasons prompting the speaker to seek for revenge, is unlike the manner of Demosthenes, and a certain feebleness and diffuseness may be noted in the narrative immediately following the exordium. Among minor details may be observed a tendency to add unnecessary and superfluous clauses, defining more clearly what has just gone before<sup>1</sup>. Again, we find needless repetitions within the compass of a single sentence<sup>2</sup>; further, we have a certain clumsiness in the

<sup>1</sup> e.g. not content with 'Ἀρεθούσιον, οὐπὲρ ἐγγράπτο εἶναι in § 2, the writer in § 10 has the words, 'Ἀρεθούσιος οὗ τὰν δράκονδ' ἐστὶ ταῦτα ἃ νῦν ἀπογράφονται, again in § 14 'Ἀρεθούσιος οὐπὲρ ἐστὶ τὰν δράκοντα ταῦτα, and similarly in § 19. The words in § 7 ἐδεῖρό μου βοηθῆσαι αὐτῷ ὥσπερ καὶ ἐν τῷ

ἔμπροσθεν χρόνῳ ἦν περὶ αὐτὸν ἀληθινὸς φίλος, are partially repeated in § 8 and § 12. Again in § 24, τὰς βασιλεὺς is unnecessarily followed by the closer definition, ὅτι ἐποίησαν οἱ ἄνθρωποι. (Cf. A. Schaefer, u. s., p. 187—190; Lortzing, *Apoll.* p. 30 etc.)

<sup>2</sup> e.g. § 4, οἰκείως διεκείμεθα... οἰκείως διεκείμην,

repetition of pronouns such as *οὗτος* and *αὐτός*<sup>1</sup>; we observe a disproportionate number of *παρά* constructions<sup>2</sup>, and it is curious to notice that a phrase occurring in this speech, which is unexampled in the undisputed writings of Demosthenes, finds its nearest parallels in speeches delivered like the present by Apollodorus<sup>3</sup>. We may also trace a general resemblance to the style of that against Neaera, the greater part of which was delivered by the same person, a speech which it is impossible to attribute to the authorship of Demosthenes<sup>4</sup>; and, lastly, there is a certain want of warmth in the peroration, unlike the vigorous style of the great orator himself.

On the whole, without entering into minuter detail, we may consider the internal evidence is such as to throw grave doubts on this speech being the genuine work of Demosthenes, and we are not surprised to find its genuineness called in question by the lexicographer of the Attic Orators, Harpocration<sup>5</sup>, though Plutarch refers it without suspicion to the authorship of Demosthenes, and fancifully contrasts the literary fame of the orator with

<sup>1</sup> § 6 *ad init.* αὐτὸν...τούτου... αὐτῷ...αὐτός. Also, *ad fin.* τούτου...τούτου...αὐτὸς...τούτον τούτου...αὐτῷ...αὐτόν. Cf. §§ 4 and 8.

<sup>2</sup> See §§ 11, 12, 24, 29.

<sup>3</sup> § 15, ἐβάδιζον ἐπὶ τὸν κλητήρα τὸν ὁμολογούντα κεκλητηνέειν... τῆς ψευδοκλητείας compared with Or. 49 § 56, μὴ... ἐπὶ τόνδε κακοτεχνῶν ἐλθοίμι; and esp. Or. 52 § 32, ἐπὶ τὸν Κηφισιδὸν βαδίζειν τὸν ὁμολογούντα κεκομισθαι καὶ ἔχειν τὸ ἀργύρον.

<sup>4</sup> Or. 59 (κατὰ Νεαίρας) is condemned by ancient critics (ὑπτιον ὄντα καὶ πολλαχῇ τῆς τοῦ ῥήτορος δυνάμει ἐνδεέστερον Arg.). Among modern critics, Reiske is its sole supporter. Among the minor points of resemblance, apart from the

general style, may be quoted Or. 59 § 16 ἀ μὲν ἡδικημένος, ὦ ἄνδρες Ἀθηναῖοι, ὑπὸ Στεφάνου... ὡς δ' ἐστὶ...τούτο ὑμῖν βούλομαι σαφῶς ἐπιδείξαι compared with Or. 58 (Nicostr.) § 19 ἀ μὲν τοῖνυν ἀδικούμενος, ὦ ἄνδρες δικασταί, ὑπ' αὐτῶν...ὡς δ' ἐστὶν... ἐπιδείξω ὑμῖν (noticed by Rehdantz, *vit. Iphicr.* p. 194). Add Or. 59 § 14. Also the tedious references to the plea of revenge, Or. 59 § 1 ὥστ' οὐχ ὑπάρχων ἀλλὰ τιμωρούμενος κ.τ.λ. and cf. § 18 ἐκ μικρῶν παιδίων with Or. 58 § 19, ἐκ μικροῦ παιδαρίου, while παιδάριον μικρόν, though common enough in itself, also happens to occur in Or. 59 § 50.

<sup>5</sup> *el γνήσιος* s.v. ἀπογραφῆς quoted in note on § 1, p. 134.

the military reputation of the general of that name in the Peloponnesian War<sup>1</sup>.

We have now to consider the data for arriving at the time when the speech was delivered. In § 9, Apollodorus describes himself as short of money, owing to differences between himself and Phormio, who was keeping him out of the property left him by his father Pasion, who, it will be remembered, died in B.C. 370. Again, in § 14 we are told, that at the time of the events there related, Apollodorus had not yet brought to a preliminary hearing the suits he had instituted against his relatives (Phormio and others). The suit against Phormio respecting the banking capital (Or. 36) was brought on about B.C. 350. But a much more direct indication is given by a reference in § 5, to a trierarchy involving the speaker's absence from Athens; and it was shortly after his return that the events described in the context occurred. He had to sail round the south of the Peloponnesus, and after touching there to take certain ambassadors to Sicily. It seems probable that we should identify this trierarchy with that mentioned in Or. 45 § 3, which belongs either to B.C. 369 or B.C. 368<sup>2</sup>. The latter date is more pro-

<sup>1</sup> Plut. *de gloria Atheniensium* chap. 8.

<sup>2</sup> Droysen (*Zeitschrift für d. Alterthumswissenschaft* 1889 p. 929) places the speech in Ol. 107, 1 [= B.C. 352—1], and Böhnecke (*Forschungen* p. 675) in Ol. 107, 2 [= B.C. 351—350]. They connect the Sicilian trierarchy of Apollodorus (1) with the despatch sent to Athens in Ol. 106, 3 [= B.C. 354—3] by a leading man in Syracuse, Callippus by name; and (2) with a request for assistance on the part of the Messenians, recorded by Pausanias (iv. 28. 2). Arnold Schaefer, however, points out

that we have no authority for stating that the Athenians sent any reply to the overtures of Callippus by sending a special embassy to Sicily, and Apollodorus would have been the last man in the world to have anything to do with Callippus, who was his personal enemy (see note on Or. 36 § 53). Besides, Apollodorus would then be in the 40th year of his age, and would have had considerable experience of business, whereas when he undertook this trierarchy, and when he shortly after assisted Nicostratus, he was quite a young man and inexperienced

bable, not only for the reason given in the note on that passage, but also because at this period no one was required to be trierarch oftener than once in three years, and we know that Apollodorus was so employed in B.C. 362; hence he may have been trierarch in B.C. 365 and B.C. 368, and probably not in B.C. 369<sup>1</sup>. Thus if we allow a fair interval of time, for the events mentioned in the speech subsequent to the trierarchy, we may fix on B.C. 366 as the probable date of its delivery. Now, if Demosthenes was born in B.C. 381, he was still a minor in B.C. 366 and too young to have been the writer of the speech; if, as is more probable, his birth was in B.C. 384, he was only just of age when the speech was delivered, and had enough to do in looking after his own affairs, and preparing, under the guidance of Isaeus, to join issue with his guardians, without writing speeches for other people. Consequently, the probable date of the speech, coinciding as it does with the internal evidence and with the doubts

in the ways of the world (§§ 12—13). As Rehdantz, who places the speech in B.C. 368, has seen (*Jahn's Neue Jahrbücher* LXX. 505), we must not refer the allusions in §§ 9 and 14 to the lawsuit of Apollodorus against Phormio which was met by the latter's special plea (Or. 36), but to the threatened litigation of the first few years after his father's death. Now, after the summer of 369 the Athenians, in consequence of help sent by Dionysius I. to his allies the Spartans, were engaged in negotiations with that tyrant which led to the conclusion of a peace and alliance. With these negotiations we may connect the Sicilian trierarchy of Apollodorus. The ambassadors whom he had on board could not confer with the Spartans

without landing at Gytheion, as the Peloponnesus was for the most part in arms on the side of the Thebans. (Abridged from A. Schaefer, u. s., p. 145—6.)

<sup>1</sup> Cf. Sigg, *Apoll.* p. 404, who (with Lortzing) also draws attention to the indication of time in § 4 *ἐπειδὴ ἐτελεύτησεν ὁ πατήρ... χρόνον δὲ προβαλόντος*. But it is fair to remark that the subsequent expression 'when-ever I was abroad, either on public service as trierarch, or on my own account on some other business,' while it is not necessarily inconsistent with a single voyage as trierarch, which is all we can assume if we place the period in B.C. 366, is better suited to a date which would allow of more than one absence on public service.

of Harpocraton, makes it almost impossible to ascribe it to the authorship of Demosthenes.

But whether written by Demosthenes, or, as is much more probable, by another, most likely by Apollodorus himself, there can be no reasonable doubt that the speech was actually delivered before an Athenian tribunal. As a study of character, the narrative of the relations between the speaker and his opponents is not without an interest of its own; and the moralist may there find a fresh exemplification of the wise saw of Polonius,

Never a borrower or a lender be,  
For loan oft loses both itself and friend.

The speech includes several passages of peculiar intricacy, in which the language of Athenian lawcourts and the vocabulary of Attic horticulture will demand special illustration in the course of the commentary<sup>1</sup>. The knotty points of legal terminology, which may embarrass the beginner, may prove attractive to experts,

*qui iuris nodos et legum aenigmata solvunt;*

though others perhaps will be better pleased to dwell on the details of the speaker's country-home, and will not be sorry to leave for a while the lawcourts of Athens, for the vineyards and orchards, the olives and roses of Attica.

<sup>1</sup> pages 146—153.

## INTRODUCTION TO

OR. LIV

### KATA KONΩNOS AIKIAS.

THIS is a speech for the plaintiff in an action for assault and battery, which arose as follows. One evening the plaintiff, a young Athenian named Ariston, accompanied by a friend, was taking his usual stroll in the market-place of Athens, when he was attacked by the defendant Conon, and his son Ctesias and four others. One of these last fell upon Ariston's friend and held him fast, while Conon and the rest made an onslaught on Ariston, stripped him of his cloak which they carried off with them, threw him violently into the mud, and assaulted him with such brutality that he was for some time confined to his bed and his life despaired of (§§ 7—12).

Ariston, on his recovery, had more than one legal course open to him (§§ 1 and 24). Conon had, in the first instance, rendered himself liable to summary arrest for stripping off his cloak, and he was still amenable either to a public indictment for criminal outrage (*ὑβρεως γραφή*) or to a private suit for assault and battery (*αἰκίας δίκη*). To take the former of these last two courses would have proved a task too arduous for so youthful a prosecutor as Ariston, and he accordingly followed the advice of his friends and adopted the safer and less ambitious plan of bringing an action for



assault. The case was submitted in this form to a public arbitrator, and as his award, whatever it may have been, was not final, the plaintiff brought his suit before one of the legal tribunals, possibly that known as the Forty, state-officers chosen by lot who went on circuit through the demes of Attica, and under whose cognisance, besides some minor matters, all private lawsuits for assault were placed<sup>1</sup>. Two points were essential to the proof of the case, (1) that the defendant struck the plaintiff who was a free-man, with intent to insult him; and (2) that the defendant struck the first blow and was not acting in self-defence under the provocation of a previous assault.

The plaintiff, after a brief statement of the reasons which led him to prefer bringing a private suit instead of a public indictment against his assailant, and after the usual request for a favourable hearing, gives a graphic account of the origin of the feud between Conon's sons and himself (§§ 3—6); he then passes on to a vivid description of the scene in the market-place and the brutal assault there committed by Conon and one of his sons (§§ 7—9), and calls medical and other evidence to prove the serious nature of that assault and its nearly fatal result (§§ 10—12).

He next anticipates the defence which is likely to be set up by Conon, who, he understands, will make light of his son's misconduct and try to pass it off as a mere freak of youthful pleasantry; he contrasts the flippancy of the proposed defence with the more serious spirit of the laws of Athens, which provide penalties for even minor offences to preclude the perpetration of

<sup>1</sup> Or. 37 (Pant.) § 33, ἡ μὲν αἰκία καὶ τὰ τῶν βιαίων πρὸς τοὺς τετραράκοντα, αἱ δὲ τῆς ὕβρεως (δίκαι) πρὸς τοὺς θεσμοθέτας. See

esp. Caillemer in *Dict. des Antiquités* (Daremberg et Saglio) s.v. *Aikias dikē*.

graver crimes (§§ 13—20); and he submits that the plea of youth can only be urged in mitigation of punishment and is at any rate inapplicable to Conon himself, a man of more than fifty years of age, who, so far from restraining his sons and the other assailants, was actually the ringleader of them all (§§ 21—23). The defendant was amenable to the laws against highway robbery and brutal outrage and, had death ensued, would have been chargeable with murder (§§ 24, 25).

He further describes the evasive conduct of the defendant during the preliminary arbitration (§§ 25—29); denounces the falsehood of the evidence put in by persons who were boon-companions of the defendant, deposing that they found the plaintiff fighting with the defendant's son, and that the defendant did not strike the plaintiff; contrasts it with the evidence of impartial persons on his own side attesting to his having been assaulted by the defendant (§§ 30—33); and comments severely on the bad character of the witnesses for the defence (§§ 34—37).

He then warns the court not to allow themselves to be imposed upon by the hard swearing and the sensational imprecations which, he is informed, will be resorted to by the defendant, whose antecedents prove his reckless disregard of things sacred; while he himself, averse though he was to taking even a lawful oath, had for the truth's sake offered to take such a pledge; and, as that offer had been declined by the defendant, he would now for the satisfaction of the court swear solemnly that in very truth he had been brutally assaulted by his opponents (§§ 38—41).

After pointing out that even in this private suit public interests were at stake, he very briefly refers to the way in which his family and himself had done their duty towards their country, while his opponents had

done nothing of the kind. 'Even supposing,' he says in conclusion, 'we are of less service to the state than our opponents, *that* is no reason why we should be assaulted and brutally outraged.'

The only clue to the date of the speech is to be found in a passage in § 3, whence we conclude that it was delivered two years after orders were given at Athens for a military force to go out on garrison duty to Parnactum, a fort on the Boeotian frontier. We read of such an expedition in B.C. 343<sup>1</sup>; and this would bring us to B.C. 341 as the year of the trial. It has been suggested, however, though no reason is assigned, that this is too late a year, and that there is warrant for believing there was regular military service, as opposed to a special expedition, on the Boeotian frontier in B.C. 357, to protect Attica from a diversion on the part of the Boeotians shortly before the Phocian war, during which there was no occasion for such precautions, as the Phocians kept the Boeotians occupied in another direction<sup>2</sup>. Thus, the military movements referred to in § 3 belong either to the time shortly before or that shortly after the Phocian war, in other words, either to B.C. 357 or 343, the speech being thus placed in B.C. 355 or 341 respectively. In the course of an *Excursum* on p. 215, I have pointed out that the reference to the Triballi in the days of Conon's youth supplies us with a hitherto unnoticed coincidence in favour of the later date.

The speech has deservedly won the admiration of

<sup>1</sup> Dem. *de fals. leg.* (B.C. 348) § 326, *περί...τῆς πρὸς Πανάκτω χώρας μεθ' ὅπλων ἐξερχόμεθα, ὃ ἕως ἦσαν Φωκεῖς σῶφι οὐδεπώποτε ἐποιήσαμεν.*

<sup>2</sup> A. Schaefer, *Dem. u. s. Zeit*, III. 2. p. 261, who notices that on Dem. Meid. § 193, ὅσοι τὰ

φρούρια ἦσαν ἔρημα λελοιπότες the Scholiast remarks φρούρια δὲ λέγει μεταξύ τῆς Ἀττικῆς καὶ Βοιωτίας. πολέμου γὰρ τότε πρὸς Θηβαίους ὄντος διὰ τὴν Εὐβοίαν ἀναγκαῖον ἦν τὰς ἐκ τῆς Βοιωτίας εἰσβολὰς παρὰ τῶν Ἀθηναίων φυλάττεσθαι.

ancient and modern critics alike. The orator Deinarchus is reported to have plagiarized from it<sup>1</sup>, the old grammarians often refer to it, the Greek writers on Rhetoric quote it more frequently than any of the other private orations, and in particular Dionysius of Halicarnassus, in his treatise on the eloquence of Demosthenes, after quoting a vivid description from the orator Lysias, one of the highest merits of whose style was the power of clear and graphic narration, selects for comparison the equally vivid passage in the present speech where the plaintiff describes the disorderly doings of his opponents in the camp at Panactum and in the market-place of Athens (§§ 3—9). His criticism is to the effect that the extract from Demosthenes is fully equal to that from Lysias in clearness, correctness, and perspicuity of style, in conciseness and terseness, in unadorned simplicity and in truthfulness of detail. He also commends the skill with which the language of the speaker is kept true to character, and appropriate to the subject, and finds in the narrative much of the winning persuasiveness, the charming grace, and the other merits of style that mark his quotation from Lysias<sup>2</sup>. A modern writer on the literature of the speeches of Demosthenes has well remarked that no selection from the Private Oration can be considered complete which does not include

<sup>1</sup> Eusebius, *Praepar. Evang.* quoting from Porphyry, (περί τοῦ κλέπτας εἶναι τοὺς Ἕλληνας), x. 8 p. 775 Migne, Δειναρχος ἐν τῷ πρώτῳ κατὰ Κλεομένηντα αἰκίας πολλά μετεγήνοχεν αὐτοῖς ὀνόμασιν, ἐκ τοῦ Δημοσθένους Μετὰ (sic) Κόνωνος αἰκίας.

<sup>2</sup> Plutarch, *de admir. vi di-cendi Dem.* 18, ταῦτα οὐ καθαρὰ καὶ ἀκριβῆ καὶ σαφῆ καὶ διὰ τῶν κυρίων καὶ κοινῶν ὀνομάτων κατεσκευασμένα, ὥσπερ τὰ Λυσίου;...

τί δ' οὐχὶ εἶντομα καὶ στρογγύλα καὶ ἀληθείας μεστὰ καὶ τὴν ἀφελῆ καὶ ἀκατάσκευον ἐπιφαίνοντα φύσιν, καθάπερ ἐκείνα;...οὐχὶ δὲ καὶ πιθανὰ καὶ ἐν ἡθείᾳ λεγόμενά τινι καὶ τὸ πρέπον τοῖς ὑποκειμένοις προσώποις τε καὶ πράγμασι φυλάττοντα; ἡδονῆς δ' ἄρα καὶ πειθοῦς καὶ χαρίτων, καιροῦ τε καὶ τῶν ἄλλων ἀπάντων, ἃ τοῖς Λυσιακοῖς ἐπανθοῦσιν, ἄρα οὐχὶ πολλὰ μύρα;

the *Conon*<sup>1</sup>; and many years after that remark was made, it was excellently edited for school-reading with a brief German commentary by Westermann.

To the general reader the main interest of the speech is to be found perhaps in the lifelike pictures of Athenian manners incidentally sketched in its pages; and several scenes have accordingly been borrowed from it and interwoven with the narrative of Becker's *Charicles* in illustration of the private life of the ancient Greeks<sup>2</sup>. In particular, we here read of the disorderly clubs formed by young men about town, who, after holding a carouse, would sally forth into the streets to assault quiet people and play practical jokes at the expense of inoffensive citizens. To these indecorous societies the defendant's sons belonged, and the defendant himself in his youth was a member of a club called after a lawless tribe of Thrace, an association that finds its modern parallel in the fraternity, which in the days of Addison took its name from the wild Mohocks of North America, and was for some time the terror of the streets of London. The practical jokes of young Athens in the days of Demosthenes re-appear, some seven centuries later, in a less objectionable, not to say harmless form, in the pleasant-ries practised by students at the University of Athens at the expense of the 'freshmen' (*οἱ νεήλυδες*), who, at the first moment of their arrival, were struggled for by the young allies of the rival lecturers, good-humouredly chaffed by them, and escorted with mock gravity through the market-place to the public bath, where, after a feint of frightening them, their tormentors considered the act

<sup>1</sup> In einer Sammlung aus den Privatreden des Demosthenes dürfte...diese nicht fehlen. A. G. Becker's *Literatur des Dem.* p. 122, 1830.

<sup>2</sup> W. A. Becker's *Charicles*, p. 136—139 (with notes) of the 2nd Germ. ed. by K.F. Hermann = p. 80—83 of abridged English ed. of 1866.

of initiation completed, and were very good friends to the freshmen ever after<sup>1</sup>.

The pages of the Greek orators abound in references to house-breaking and highway robbery, to street-brawls and other disorderly acts imperilling the public security<sup>2</sup>; and in the present speech we find that the plaintiff could not take a quiet walk along the market-place of Athens, beneath the rock of the Acropolis, past the temple erected as a memorial of the patriotic self-sacrifice of the daughters of an ancient king of Attica, and by the very scene where the tyrant Hipparchus was slain, without finding himself the victim of a brutal and outrageous assault. In times such as these at Athens, one who was tempted to take an evening stroll with a friend, if invited in language like that of Sebastian in *Twelfth Night*,

I pray you, let us satisfy our eyes  
With the memorials and the things of fame  
That do renown this city,  
might have replied, with Antonio,

Would you'd pardon me,  
I do not without danger walk these streets.

<sup>1</sup> Gregor. Nazianzen, Or. 43 in *laudem Basilii magni* c. 16, who describes the initiation as τοῖς ἀγνοοῦσι λίαν φοβερόν καὶ ἀνήμερον τοῖς δὲ προειδόσι καὶ μᾶλα ἡδὺ καὶ φιλόανθρωπον. Gregory's young friend Basil was one of the few who were spared the ordeal on coming into residence (in A.D. 351).

<sup>2</sup> e. g. (Dem.) Or. 47, κατ' Εὐέργου καὶ Μησιβοῦλου, Lysias Or. 3, πρὸς Σίμωνα and fragm. 75 (ed. Scheibe), a long passage quoted by Dionysius as a parallel to the *Conon* (as already stated, p. lix). Cf. Becker's *Charicles*, Sc. v, note 9, and Mahaffy's *Social Life in Greece* p. 319.

## INTRODUCTION TO

OR. LV

### ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ ΠΕΡΙ ΧΩΡΙΟΥ<sup>1</sup>.

THIS is a speech on the side of the defence in an action for damages alleged to have been incurred by the plaintiff, Callicles, by reason of a wall having been built on the defendant's property to the obstruction of a water-course carrying off the drainage of the surrounding hills. The farms of the plaintiff and defendant lay in a hilly district of Attica, separated from one another by a public road; and the defendant's father, Tisias, on coming into possession of his farm and finding that the water which flowed from the high ground had made an inroad into his property and was cutting itself a regular channel, built a stone-wall round it to prevent the water from making any further encroachment. No protest was raised on the part of the plaintiff's family either at the time or for many years subsequently; Tisias lived fifteen years after building the enclosure, and, after his death, a mountain-torrent caused by a heavy shower of rain overthrew an old wall on the plaintiff's land, flooded his property and damaged some of his stores. Thereupon the plaintiff brought an action for damages, alleging that the flood was due to the stream being diverted to his own side of the road by the proper water-course having

<sup>1</sup> *περὶ χωρίου βλάβης* is the title given by Harpocration, in one of his articles (s.v. *χλῆδος* Or. 55 § 22). But cf. § 18.

been blocked up by the building of the wall on the defendant's property.

The speech for the defence opens by casting on the plaintiff the imputation of bringing the action with a view to getting possession of the defendant's property (§ 1). The speaker, a son of Tisias, whose name is not given, pleads that the wall was built by his father fifteen years before his death, without any objection on the part of the plaintiff's family, and challenges the other side to prove the existence of the water-course alleged to be obstructed by the wall (§§ 3—7); he had offered to refer the dispute to the arbitration of impartial persons familiar with the neighbourhood, but the plaintiff had refused the offer (§§ 8, 9); he then describes carefully the position of the two properties on the opposite sides of the public way, and accounts for the building of the wall (§§ 10, 11). He next calls evidence to prove that the alleged water-course was part of his private ground, as it contained an old burial-place, and an orchard besides (§§ 12—15); he further shews that, as the water would naturally flow down the public way, there was no occasion for such a water-course (§§ 16—18), and that there was no such channel immediately above or below his own property (§ 19). The plaintiff's loss was due to his own carelessness and he was most inconsistent in bringing this action (§ 20); the other neighbours who had suffered severely made no complaint, whereas the plaintiff had lost nothing worth mentioning (§§ 21, 23—25). Again, his opponents had themselves advanced their wall (and thus encroached on public property); they had also raised the level of the road (and thus led to the water being liable to be diverted from the road itself to the lands adjacent). After once more referring to the plaintiff's interested motive in bringing the action, he states in conclusion that, though the plaintiff had refused his



offer, he had been ready to take the legally recognised oath and to swear that he had not caused the damage alleged, feeling that that would be the strongest argument with a jury who were themselves on their solemn oath.

The general style of the *Callicles*, as indeed that of the *Conon*, is not unlike that of Lysias, and speeches on similar subjects, one on a water-conduit and another on a disputed boundary, are known to have been composed by the orator Hyperides<sup>1</sup>, but the genuineness of the speech before us can hardly be seriously contested<sup>2</sup>, though it has been suggested that it was written by Demosthenes in his younger days<sup>3</sup>. It is quoted without hesitation by Harpocration and the rhetoricians alike, as the work of Demosthenes himself. The narrow limits of the speech and the somewhat trivial nature of the subject will account for the exordium not being succeeded, as elsewhere, by any formal narrative or statement of the case; instead of this, the narrative of the facts is only incidentally included in the course of the speech, and is blended and interwoven with the thread of the argument. Here and there the argument is brightened by a touch of quiet humour, as in the passage where the speaker, arguing on the supposition of his allowing the rain-water to make an inroad into his property, after exhausting several alternatives of dealing with the stream when once it was there, exclaims in conclusion, 'What *am* I to do with it? for I presume the plaintiff won't compel me to drink it up!'

<sup>1</sup> *περὶ ὀχετοῦ* and *περὶ τῶν ὀρίων* p. 88 (ed. Blass) fragm. 134 *ὅπως τὸ αἰώμαλον τοῦ χωρίου τῇ τῶν ἀνδρῶν καὶ ὀχετῶν ἀφαιροῖτο κατασκευῇ*. fragm. 158, *ὀχετὸς κρῖνα* (= αἱ τῶν ὀχετῶν ἀρχαί).

<sup>2</sup> A. Bekker however in his Leipzig ed. 1855 considers it doubtful, (cf. Sigg. *Apoll.* p. 401 note).

<sup>3</sup> A. Schaefer, u. s., III. 2. 256.

In the course of the speech we have also several indications of the provisions of Athenian law respecting those rights of water, with the Roman law of which we are far better acquainted. We gather that the inferior tenant held his land subject to the limiting obligation, or *servitus* as Roman lawyers would have called it, of giving free passage into his own land for the water, in particular the rain-water, flowing from the superior tenement; and in a passage of Plato's *Laws* we find provisions suggested for regulating the relations between neighbours in rights of this description and requiring the superior proprietor to do everything in his power to relieve the inferior proprietor from unnecessary inconvenience<sup>1</sup>. Again, the law did not allow the diversion of the natural and regular channel of the water by the building of a wall or by any similar construction. Callicles appears to have had no case, as his property did not immediately adjoin that of the defendant but was separated from it by a public way which provided sufficiently for carrying off the water. In some instances, but (as the defendant contends) not in the present, a regularly recognised water-course, or ditch, traversed several successive properties, and it is clear that no individual proprietor could intercept this. It also appears that the proprietor of any land bordering on a public way generally turned his drainage on to the road (§ 26)<sup>2</sup>.

The legal issue in the *Callicles* appears to turn in a great measure on the nature of the water-course, the existence of which is maintained by the plaintiff and denied by the defendant. The encroachment made by the floods, before the defendant's father became the pro-

<sup>1</sup> p. 844, quoted in note on § 19. *Aqua* in *Dict. des Antiquités*, Daremberg et Saglio.

<sup>2</sup> Cf. M. Caillemer's article on

priotor, led to a stream of intermittent rain-water gradually forming a channel for itself (μᾶλλον ὥδοποιεῖ § 11) through a burial-ground<sup>1</sup> planted with fruit-trees. The plaintiff appears to have contended that the channel thus formed was a water-course within the terms of the law; the defendant relies on the existence of the trees and the tombs to prove that it was *not* a recognised channel, but part of his private ground, accidentally inundated, and repeatedly traversed by water, more than fifteen years before. It was this damage, he contends, that led to his father building the wall for the protection of his property.

Lastly, we have several points that are curiously suggestive on the state of the country-roads in the hilly districts of Attica; the road itself is assumed to be the natural channel for the drainage of the neighbouring hills, and a proper water-course beside the road is declared a thing unheard of. In fact, like some of the present roads of Attica, as described in a modern writer's amusing sketches of Greek brigandage, the road and the stream were one and the same thing, and, except in dry weather, the former hardly existed<sup>2</sup>.

<sup>1</sup> For purposes of irrigation, Plato would allow the tenant to divert water from streams that were common property by cutting himself a channel anywhere except through a private house or through temples or tombs. Legg. p. 844 A, τῶν ὑδάτων περί γεωργαῖσι παλαιοί

καὶ καλοὶ νόμοι κείμενοι οὐκ ἄξιοι παροχετεύειν λόγοις, ἀλλ' ὁ βουληθεὶς ἐπὶ τὸν αὐτοῦ τόπον ἀγεῖν ὕδωρ ἀγέτω μὲν ἀρχόμενος ἐκ τῶν κοινῶν ραμάτων... ἥ δ' ἂν βούληται ἀγεῖν, πλὴν δι' οἰκίας ἢ ἱερῶν τι· νῶν ἢ καὶ μνημάτων, ἀγέτω.

<sup>2</sup> Edmond About, quoted on p. 231.

## EXPLANATION OF THE SYMBOLS USED IN THIS EDITION IN RECORDING VARIOUS READINGS.

As a general rule, wherever our text (that of W. Dindorf's third Edition) agrees with that of the Zurich editors, we have not thought it necessary to notice any variations in the mss. Where Dindorf differs from the Zurich editors, the difference is in most cases due to the greater weight given by the latter to the readings of the Paris ms Z.

Z stands for the *Zurich* text of Demosthenes as printed by J. G. Baiter and H. Sauppe in their admirable edition of the *Oratores Attici*, in one volume (1850).

Bekk. Bekker's Berlin edition of 1824. Bekker's stereotyped edition (*Bekker st.*) was published at Leipzig in 1854, including a list of all the variations between the two editions, and this list is incorporated in the notes to the present volume, except in the case of Or. 86, where the only variations are the following: § 6, line 2, αὐτῶν (*Bekk. st.*) for ταύτων τῶν: § 8 τοῦτους...ἀντιπολεῖν (*st.*) for τοῦτοις...τὰς ἀντιπολεῖν: § 24 εἰδῆθ' (*st.*) for εἰδῆθ': § 36 ὀδύπεραι (*st.*) for ὀδυπεῖραι and § 60 αὐτῶν (*st.*) for αὐτῶν ὑμῖν. When Dindorf differs from the Zurich editors, he generally agrees with Bekker. When a note begins with Bekk., it is meant that Dindorf's text is supported by Bekker's Berlin and Leipzig editions; then, after a slight space, follows the reading of the Zurich editors (Z) with the mss supporting it, introduced by the word *cum*. The mss thus quoted by the Zurich editors are as follows:

Z. [Cited by some editors as S.] in the Public Library of Paris (No. 2934), on parchment; century X. This is admitted on all hands to be the best ms, and its readings are very often accepted by Bekker and still more frequently by the Zurich editors. For a protest against *excessive* deference to its authority, see the Preface of Mr Shilleto's fourth edition of the *De falsa legatione*, pp. vii, viii, xiv.

F. *Codex Marcianus*, in the Library of St Mark's, Venice (No. 416), on parchment; century XI. This ms generally agrees with the *Codex Bavaricus* (B).

Φ. In the same Library (No. 418), on parchment; century XI.

k. In the Public Library of Paris (No. 2998) on cotton paper (bombycinus), *forma quadrata*; century XIV. Contains Or. 54 (κατὰ Κόρωνος).

lxviii *EXPLANATION OF SYMBOLS, &c.*

r. In [the same Library (No. 2936), on parchment *forma maxima*; century XIII.

A<sup>1</sup>. *Augustanus primus*, formerly at Augsburg (*Augusta Vindelicorum*), now at Munich (No. 485), on parchment, *paene quadratus*; century XI (according to Dindorf), or XII (according to Z).

B. *Bavaricus*, now at Munich (No. 85), on cotton-paper ('bombycinus') *forma maxima*; century XIII.

γρ. A contraction for γρδφραι, used in the mss themselves to introduce the marginal citation of a various reading.

In the Fitzwilliam Museum at Cambridge there is a ms of Demosthenes bequeathed to the University by Mr Kerrich, an account of which has been given by Mr Paley in the *Journal of Philology*, vol. v. p. 28, and in a collation of the *de falsa legatione* published by the Philological Society of Cambridge. The readings of the ms appear to correspond to the vulgate before the time of Bekker, and it seems therefore of no great value. It contains the arguments only to the Private Orations to the present volume, and its variations from Dindorf's text are duly recorded under the abbreviation *Kerrich ms.*

## ΠΑΡΑΓΡΑΦΗ ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

## ΥΠΟΘΕΣΙΣ.

- Πασιῶν ὁ τραπεζίτης τελευτῶν ἐπὶ δύο παισὶν ἐξ  
 Αρχίππης, Ἀπολλοδώρῳ καὶ Πασικλεῖ, Φορμίωνα  
 οἰκέτην ἑαυτοῦ γενόμενον, τετυχηκότα δὲ ἔτι πρότε-  
 ρον ἐλευθερίας, ἐπίτροπον τοῦ νεωτέρου τῶν παίδων  
 5 Πασικλέους κατέλιπε, καὶ τὴν μητέρα αὐτῶν, παλ-  
 λακὴν ἑαυτοῦ γενομένην, ἔδωκεν ἐπὶ προικὶ γυναῖκα.  
 Ἀπολλόδωρος οὖν νέμεται πρὸς τὸν ἀδελφὸν τὴν  
 πατρῴαν οὐσίαν πλὴν τῆς τραπέζης καὶ τοῦ ἀσπι-  
 δοπηγείου· ταῦτα γὰρ Φορμίῳ ἐμεμίσθωτο παρὰ  
 10 Πασιῶνος εἰς ὠρισμένον χρόνον τιμὰ καὶ τέως μὲν  
 ἐλάμβανε τὸ ἥμισυ τῆς μισθώσεως ἐκάτερος, ὕστερον  
 δὲ καὶ αὐτὰ νέμονται, καὶ γίγνεται τὸ μὲν ἀσπιδο-  
 πηγεῖον Ἀπολλοδώρου, Πασικλέους δὲ ἡ τράπεζα.  
 ἀποθανούσης δὲ καὶ τῆς μητρὸς ὕστερον, νειμάμενος

*Argument.* τελευτῶν ἐπὶ δύο  
 παισιν.] 'Dying with (in pos-  
 session of) two children,' i. e.  
 'leaving two children behind  
 him at his death;' an idiom  
 not unfrequent in late Greek,  
 e. g. Herodian (fl. A. D. 238) IV.  
 2. 1, ἔθος ἐστὶ Ῥωμαίοις ἐκθει-  
 ἀζειν βασιλέων τοὺς ἐπὶ παισὶ  
 διαδόχοις τελευτήσαντας.

6. ἐπὶ προικί.] For the construc-  
 tion cf. Or. 28, Aphob. B, § 16,  
 τὴν ἐμὴν μητέρα ἐγγνῶν ἐπὶ ταῖς

ογδοήκοντα μυαῖς. The marriage  
 portion of Archippe amounted  
 to five talents, as we learn from  
 the First Speech against Ste-  
 phanus, Or. 45 § 74, cf. *ib.* § 28,  
 ἡκούσατε τὸ πλῆθος τῆς προικὸς,  
 τάλαντον ἐκ Πεκταρήθου, τάλαντον  
 αὐτόθεν, συνοικίαν ἑκατὸν μνῶν,  
 θεραπαίνας καὶ χρυσία κ.τ.λ.

12. αὐτὰ.] They share between  
 them the properties themselves,  
 viz. when Phormio's lease of  
 them had expired.

15 καὶ τὴν ἐκείνης οὐσίαν, ἐνεκάλει τῷ Φορμίῳ ὡς  
πολλὰ ἔχοντι ἑαυτοῦ χρήματα. καθίσαντες οὖν ἑαν-  
τοὺς διαιτητὰς, ὥς φησι Φορμίῳ, Ἀπολλοδώρῳ προσ-  
ήκοντες, Νικίας καὶ Δεινίας καὶ Ἀνδρομένης, ἔπεισαν  
Ἀπολλόδωρον διαλύσασθαι πρὸς Φορμίῳνα τὰ ἐγ-  
20 κλήματα λαβόντα πεντακισχιλίας. ὁ μὲν οὖν Ἀπολ-  
λόδωρος μετὰ ταῦτα πάλιν εἴληχε δίκην Φορμίῳ  
ἀφορμῆς· ἀφορμὴν δὲ οἱ Ἀττικοὶ καλοῦσιν ὅπερ ἡμεῖς 944  
ἐνθήκην. ὁ δὲ Φορμίῳ παραγράφεται, νόμον παρε-  
χόμενος τὸν κελεύοντα περὶ ὧν ἂν ᾗπαξ ἀφ᾽ ἧς τις καὶ  
25 διαλύσεται μηκέτι ἐξεῖναι δικάζεσθαι. ἄπτεται μέντοι

21. εἴληχε.] In Grammarian's Greek, this stands either for λαγχάνει or ἐλαχε. So πέποιθε is used in the Argument to Or. 34, line 31, and so πεποίηκεν below. P.]

22. δίκην ἀφορμῆς.] 'A suit referring to Capital,' 'a suit for the recovery of banking stock.' § 12 ἐγκαλοῦντ' ἀφορμὴν.

23. ἐνθήκην.] Harpocration s.v. ἀφορμή· ὅταν τις ἀργύριον δῶ ἐνθήκην, ἀφορμή καλεῖται ἰδίως παρὰ τοῖς Ἀττικοῖς. And similarly Hesychius. For this late Greek equivalent to ἀφορμή references are given in Sophocles' Lex. of Rom. and Byzantine Greek to Phrynichus 223 (fl. A.D. 180) and Basilinus of Caesarea III. 320 (fl. c. A.D. 379).

παράγρφεαι κ.τ.λ.] 'Phormio raises a special plea in bar of action, by appealing to a statute enacting that, on matters on which a release and quit-  
tance has once been granted, no subsequent litigation shall be lawful.' See note on § 25 ἀφείς καὶ ἀπαλλάξας. Pollux: παραγράφῃ· ὅταν τις μὴ εἰσαγωγίμων λέγῃ εἶναι τὴν δίκην, ἥ ὡς κεκριμένος, ἥ διαίτης γεγενημένης, ἥ

ὡς ἀφειμένος, ἥ ὡς τῶν χρόνων ἐξηκόντων (§ 26) ἐν οἷς ἔδει κρίνεσθαι· where he enumerates the four principal circumstances under which an ordinary action is not maintainable. (Cf. C. R. Kennedy, Dem. Vol. I. Appendix, ix. p. 378.)

παρεχόμενος.] 'adducing,' προίσχόμενος. A use of the participle analogous to παρέχεσθαι μάρτυρας (Aphob. Or. 27 § 8), said of one who is pleading his own cause, and so, inf. § 54, and often elsewhere. P.]

25. ἄπτεται τῆς εὐθείας.] Sc. δίκης. 'Touches on, handles, grapples with, the general issue,' εὐθυδικία being the direct course of an action argued on the merits of the case, as opposed to παραγράφῃ. Or. 34 ὑπόθ. I. 32, and ib. § 4, εὐθυδικίαν εἰσιόντα; Or. 45 κατὰ Στεφάνου § 6 (where Apollodorus is speaking of the defendant in the present case) προλαβὼν μου ὥστε πρότερον λέγειν διὰ τὸ παραγράφῃν εἶναι καὶ μὴ εὐθυδικία (qu. -αν) εἰσιέναι. Isocr. παραγρ. πρὸς Καλλιμαχον §§ 1—3 μηδεὶς θανάσιμη δτι φεύγων τὴν δίκην πρότερος λέγω τοῦ διώκοντος κ.τ.λ.

καὶ τῆς εὐθείας ὁ ῥήτωρ, δεικνὺς ὡς οὐκ εἶχεν ἡ τράπεζα χρήματα ἴδια τοῦ Πασίωνος. τοῦτο δὲ πεποίηκεν, ἵνα ἡ παραγραφὴ μᾶλλον ἰσχύῃ, τῆς εὐθείας δεικνυμένης\* τῷ Ἀπολλοδώρῳ σαθράς.

Τὴν μὲν ἀπειρίαν τοῦ λέγειν, καὶ ὡς ἀδυνατῶς ἔχει Φορμίων, αὐτοὶ πάντες ὁρᾶτε, ὧ ἄνδρες Ἀθη-

\* δεικνυμένης Ζ.

27. τοῦτο δὲ πεποίηκεν κ.τ.λ.] 'He has done (or 'does') this to give greater force to the special plea, by proving that, even on its own merits, the case of the plaintiff is quite untenable.' (σαθράς, thoroughly rotten, unsound.) Cf. ὑπόθεσις of Or. 32, Zenoth. δεικνυσιν ὅτι θαρρεῖ μὲν τῇ εὐθείᾳ, ἐκ περιουσίας δὲ αὐτῷ καὶ παραγραφὴν ὁ νόμος δίδωσιν.

§§ 1—3. The defendant Phormio's obvious inexperience and incapacity for public speaking make it necessary for his friends to state his case on his behalf. They confront the plaintiff Apollodorus with a special plea in bar of action, not to waste time and evade the main issue, but to secure a final settlement of the case. Their friend, the defendant, has conferred many kindnesses on the plaintiff; and has further been released from all the legal claims of the latter, only to find himself at last the victim of a vexatious lawsuit. However, a brief recital of the transactions of the litigants will prove that the plaintiff's case is utterly untenable.

1. τὴν ἀπειρίαν τοῦ λέγειν.] Like all slaves at Athens, Phormio (once the slave of the banker Pasion) was of barbarian birth; and though subsequently rewarded with the rights of freedom and citizenship, remained

unable to speak good Greek. In a later speech arising out of the present action, Apollodorus, himself the son of one who was once a slave, taunts him with his foreign extraction and his indifferent pronunciation. Or. 45 κατὰ Στεφάνου A, § 81 βάρβαρος ἐωνήθησιν and § 30, ὥσως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει τῇ φωνῇ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι, ἔστι δὲ βάρβαρος οὗτος τῷ μισεῖν οὗς αὐτῷ προσήκε τιμᾶν, τῷ δὲ κακουργῆσαι καὶ διορύξαι πράγματα οὐδενὸς λείπεται. In § 77, Apollodorus himself apologizes for his broad brogue or loud voice (λαλεῖν μέγα); the speaker of πρὸς Πανταίνετον makes similar excuses for his διδλεκτός (Or. 37 §§ 52, 55); and a like tribute to the sensitiveness of an Attic audience is paid by the Mytilenaeon in Antiphon's de Caede Herodis (Or. v. § 5) δέομαι ὑμῶν... ἐάν τι τῇ γλώσσῃ ἁμάρτω, συγγνώμην ἔχειν μοι καὶ ἡγείσθαι ἀπειρία αὐτὸ μᾶλλον ἢ ἀδικία ἡμαρτήσθαι.

ἀδυνατῶς ἔχει.] 'Is quite incapable,' referring mainly to his inexperience and want of facility in speaking. Thus in Antiphon u. s. v. § 2 ἡ τοῦ λέγειν ἀδυναμία is contrasted with ἡ ἐμπειρία τῶν πραγμάτων.

ὁρᾶτε.] In a general sense, 'you all of yourselves observe.'



- ναῖοι· ἀνάγκη δ' ἐστὶ τοῖς ἐπιτηδεύουσιν ἡμῖν, ἃ σύνισμεν  
πολλάκις τούτου διεξιόντος ἀκηκούτες, λέγειν καὶ δι-  
δάσκειν ὑμᾶς, ἵν' εἰδότες καὶ μεμαθηκότες ὀρθῶς τὰ  
δίκαια παρ' ἡμῶν, ἃ ἂν ᾗ δίκαια καὶ εὖορκα, ταῦτα  
2 ψηφίσῃσθε. τὴν μὲν οὖν παραγραφὴν ἐποίησάμεθα  
τῆς δίκης οὐχ ἵν' ἐκκρούοντες χρόνους ἐμποιώμεν, ἀλλ'  
ἵνα τῶν πραγμάτων, εἰς ἐπιδείξῃ μηδ' ὅτι οὐν ἀδι-  
κούνθ' ἑαυτὸν οὐτοσί, ἀπαλλαγὴ τις αὐτῷ γένηται  
παρ' ὑμῖν κυρία. ὅσα γὰρ παρὰ τοῖς ἄλλοις ἐστὶν ἀν-  
θρώποις ἰσχυρὰ καὶ βέβαια ἀνευ τοῦ παρ' ὑμῖν ἀγωνί-  
σασθαι, ταῦτα πάντα πεποιηκώς Φορμίων οὐτοσί, καὶ 945  
3 πολλὰ μὲν εὖ πεποιηκώς Ἀπολλόδωρον τουτονί, πάντα  
δ', ὅσων κύριος τῶν τούτου κατελείφθη, διαλύσας καὶ

δ' ἂν ᾗ δίκαια κ.τ.λ.] The relative clause of ταῦτα ψηφίσῃσθε is placed before it partly for increased emphasis, partly to bring δίκαια closer to τὰ δίκαια in the previous context.

2. ἵν' ἐκκρούοντες χρόνους ἐμποιώμεν.] 'With the evasive object of wasting time,' or (with Kennedy) 'for the sake of evasion and delay.' The phrase χρόνους ἐμποίειν occurs in Or. 9 § 71, 28 § 93. Cf. Or. 47 § 63, διατριβὰς ἐμποίων.....τεχνάζων τοῦ χρόνον ἐγγενέσθαι. For ἐκκρούοντες, cf. Or. 54 κατὰ Κόνων. § 30, and for the general sense, Thuc. iii. 38, χρόνον διατριβὴν ἐμποίειν and κατὰ Στεφ. Α. § 4, p. 1102, χρόνον γιγνομένου καὶ τῆς γραφῆς ἐκκρουομένης. Liddell and Scott give a phrase ἐκκρούειν χρόνον, 'to waste time,' and, to prove it, inadvertently refer to the last passage and to the words of the text, where χρόνους clearly comes after ἐμποιώμεν.

ἀπαλλαγὴ κυρία.] A legal and valid (or final) acquittal from all future actions, πραγμάτων.

ἀνευ τοῦ παρ' ὑμῖν ἀγωνίσασθαι.] 'Without standing a trial in your court.'

πεποιηκώς.....εὖ πεποιηκώς..... διαλύσας ... παραδούς ... ἀφ' ὧν.] Although all these participles refer to Phormio, who is the subject of the first part of the sentence, the principal verb συκοφαντεῖ refers to Apollodorus. To obviate the harshness of this anacoluthon it has been proposed (by G. H. Schaefer) to follow one of the MSS., the Augustanus primus, in reading πεποίηκε for πεποιηκώς, and also to strike out καὶ before πολλὰ, and place a full stop at ἐγκλημάτων. [But we should still expect ὅμως δ', or ἀλλ' ὅμως. Perhaps it is better to regard this as an instance of the 'nomi-nativus pendens.' P.] (Funkhaenel, quaest. Dem. p. 75 sq.)

3. τούτου.] Apollodorus.

διαλύσας κ. παραδούς κ.τ.λ.] 'Having duly paid and delivered up everything—and having thereafter received a discharge from all further claims.'

παραδούς δικαίως, καὶ πάντων ἀφθεῖς μετὰ ταῦτα τῶν ἐγκλημάτων, ὅμως, ὡς ὁράτε, ἐπειδὴ φέρειν τοῦτον οὐχ οἶός τ' ἐστὶ, δίκην ταλάντων εἴκοσι λαχὼν αὐτῷ ταύτην συκοφαντεῖ. ἐξ ἀρχῆς οὖν ἅπαντα τὰ πραχθέντα τούτῳ πρὸς Πασίωνα καὶ Ἀπολλόδωρον ὡς ἂν δύνωμαι διὰ βραχυτάτων εἰπεῖν πειράσομαι, ἐξ ὧν εὖ οἶδ' ὅτι ἢ τε τούτου συκοφαντία φανερὰ γενήσεται, καὶ ὡς οὐκ εἰσαγωγίμος ἡ δίκη γνῶσεσθε ἅμα ταῦτ' ἀκούσαντες.

4 Πρῶτον μὲν οὖν ὑμῖν ἀναγνώσεται τὰς συνθήκας,

ἐπειδὴ φέρειν τοῦτον οὐχ οἶός τ' ἐστὶ.] i. e.: since (or, at a time when) Phormio cannot submit any longer to the unconscionable claims of Apollodorus (and therefore declines to make any further concessions), the latter has vexatiously instituted the present action. The subject of the subordinate clause appears to be Phormio. For the sense, compare the language ascribed to Apollodorus in § 33, *μισθωσιν ἡθέλει αὐτῷ φέρειν Φορμίον πολλήν... ἐπεὶ δ' οὐ ποιεῖ ταῦτα, τῆρκαῦτα, φησὶ, δικάζομαι*, and especially κατὰ Στεφ. Α, § 5, *ἐπειδὴ ποιεῖν τε οὐδὲν φετο δεῖν ὧν τότε ὡμολόγησε, καὶ τὰ χρήματα ἀποστέρειν ἐνεχείρησεν ἃ τῆς τραπεζῆς εἶχεν ἀφορμῇ, δίκην ἡραγκάσθην λαχεῖν*.—For *δίκην λαχὼν*, cf. Or. 54 § 1, *ελαχον δίκην* n.

*συκοφαντεῖ*.] Cf. Or. 55 § 1 n. —*πραχθέντα τούτῳ*, Or. 34 § 36 n.

*Πασίωνα*.] Pasion, originally the slave of Archestratus (§ 48), and accountant to the banking-firm of Archestratus and Antisthenes, was set free by his masters and succeeded them in their business (§§ 43—48). The Trapeziticus of Isocrates,

which belongs to B.C. 394, while Pasion was probably still a *μέτοικος*, and not yet rewarded with the citizenship of Athens, purports to be a speech written in prosecution of Pasion for defrauding a subject of Satyrus, king of Bosphorus. The father of Demosthenes had some money in Pasion's bank (Or. 27 § 11). Pasion, according to his son, Apollodorus, had conferred many benefits on the state, e.g. by presenting five triremes and a thousand shields (Or. 45 § 85), and his credit was good throughout all Greece (Or. 50 § 56). He died in B.C. 370 (Or. 46 § 18).

*οὐκ εἰσαγωγίμος*.] Or. 45 § 5 (of this very trial), *παρεγράψατο τὴν δίκην ἣν ἔφηνε Φορμίον οὐκ εἰσαγωγίμον εἶναι*. See *ὑπόθεσις* l. 23, *παράγραφεται*, n.

§§ 4—11. Statement of the transactions of Phormio with Pasion and Apollodorus. After Phormio had become his own master, but before he had received the rights of Athenian citizenship, Pasion gave him a lease of the Bank and the Shield-Manufactory. Subsequently Pasion became ill and died, leaving a will whereby

καθ' ἧς ἐμίσθωσε Πασίων τὴν τράπεζαν τούτῳ καὶ τὸ ἀσπιδοπηγεῖον. καὶ μοι λαβὲ τὰς συνθήκας καὶ τὴν πρόκλησιν καὶ τὰς μαρτυρίας ταυτασί.

### ΣΤΥΝΘΗΚΑΙ. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

Αἱ μὲν οὖν συνθήκαι, καθ' ἧς ἐμίσθωσεν ὁ Πασίων τούτῳ τὴν τράπεζαν καὶ τὸ ἀσπιδοπηγεῖον ἤδη καθ' ἑαυτὸν ὄντι, αὐταὶ εἰσιν, ὧς ἄνδρες Ἀθηναῖοι δεῖ δ' ὑμᾶς ἀκοῦσαι καὶ μαθεῖν ἐκ τίνος τρόπου προσώφειλε

*Phormio married his former master's widow (Archippe), and became guardian to his younger son (Pasicles). The elder son (Apollodorus) proceeded to appropriate to his private use large sums out of the common estate, and the guardians accordingly deemed it prudent on behalf of their ward to determine on a partition of all the effects except the Bank and Shield-Manufactory, leased to the defendant, who was one of the guardians. The defendant paid a moiety of the rent of that property to the elder son, Apollodorus, who when Pasicles came of age discharged the defendant from his liability under the lease and from all further claims. The said property was thereupon divided between the two brothers, the elder exercising his option in favour of the Shield-Manufactory, as the safer though less remunerative business, and leaving the Bank, with its higher but more hazardous revenue, to his younger brother.*

4. συνθήκας.] The terms are given in Or. 45, § 32, μίσθωσιν φέρειν τοῦτον ἀνευ τῆς καθ' ἡμέραν διοικήσεως δύο τάλαντα καὶ τετταράκοντα μνᾶς τοῦ ἐναυτοῦ ἐκάστων...προσέγραπται δὲ τελευταῖον ὁφείλει δὲ Πασίων

ἐνδεκα τάλαντα εἰς τὰς παρακαταθήκας.

ἀσπιδοπηγεῖον.] Or. 45 § 85, ὁ ἐμὸς ὑμῖν πατὴρ (Pasion) χιλίας ἔδωκεν ἀσπίδας.

τὴν πρόκλησιν.] Probably a challenge to Apollodorus for the production of the articles of agreement between Pasion and Phormio. On the term in general, see Or. 54 § 27, προκαλοῦνται, n. and infr. § 7 n.

ἤδη καθ' ἑαυτὸν.] 'His own master,' no longer subject, as a slave, to the control of another, though still a μέτοικος.

[Below, § 6, it is said that Phormio saw a difficulty in getting in money due to the bank, if he did not possess the citizenship. He saw this when he was thinking of hiring (μισθοῦμενος) the bank of which Pasion is here said to have given him a lease. Hence there seems a difficulty in rendering ἤδη καθ' ἑαυτὸν ὄντι, 'when he was now his own master.' May it not mean, 'While he, Phormio, was at the time in his (Pasion's) service'? P.]

προσώφειλε κ.τ.λ.] The defendant has to explain how it comes to pass that Pasion is entered in the articles of agreement as owing eleven talents to the bank. He shows that

5 τὰ ἔνδεκα τάλαντα ὁ Πασίων ἐπὶ τὴν τράπεζαν. οὐ γὰρ δι' ἀπορίαν ταύτ' ᾤφειλεν, ἀλλὰ διὰ φιλεργίαν. ἡ μὲν γὰρ ἔγγειος ἦν οὐσία Πασίωνι μάλιστα ταλάντων εἴκοσιν, ἀργύριον δὲ πρὸς ταύτῃ δεδανεισμένον ἴδιον πλέον ἢ πεντήκοντα τάλαντα. ἐν οὖν τοῖς πεντήκοντα

this sum had been lent by Pasion on the security of certain lands and houses on which Pasion as the creditor, being an Athenian citizen, would have a claim, in the event of the loan not being refunded or the interest regularly paid. As Phormio the lessee of the banking business had not yet acquired the rights of citizenship, it was therefore arranged that Pasion should not transfer these securities to Phormio but keep them in his own hands, and credit Phormio with their value: in other words, enter himself in the articles of agreement as debtor to the bank to the amount of eleven talents.

For *προσώφειλε*, the compound verb followed by the simple *ᾤφειλε* where the repetition of the preposition is not necessary, cf. Cic. Catil. iv. 1, *perferrem...feram*.

5. ἀπορίαν...φιλεργίαν.] Not 'want' but 'thrift,' or (with Kennedy) 'Not on account of poverty, but on account of his industry in business.' In Or. 45 § 33 Apollodorus insinuates that the debt arose from Phormio's mismanagement.

ἔγγειος οὐσία.] 'Property in land,' 'real property,' also called *φανερὰ οὐσία*. Harpocr. *ἀφανὴς οὐσία καὶ φανερὰ: ἀφανὴς μὲν ἡ ἐν χρήμασι καὶ σώμασι καὶ σκεύεσι, φανερὰ δὲ ἡ ἔγγειος*.

ἀργύριον πρὸς ταύτῃ.] In addition to this he had money of his own (personal property)

lent out on interest to the amount of more than fifty talents. The larger amount so employed shows that he was a usurer by practice or profession. P.]

ἐν οὖν τοῖς πεντήκοντα...ἔνδεκα.]

We have just been told that Pasion had more than 50 talents of his own money (*ἀργύριον ἴδιον*) lent out at interest, and we now find that ἐν τοῖς πεντήκοντα ταλάντοις there were 11 talents from the bank-deposits, profitably invested. The latter could hardly be called *ἴδιον ἀργύριον*, unless the words are used loosely in the general sense of 'personal property' as opposed to *ἔγγειος οὐσία* or 'real property.' But we should perhaps strike out *ἴδιον* and attribute its insertion to an accidental repetition of *πλέον*, as *ΤΑΙΩΝ* and *ΠΑΛΕΩΝ* are not very unlike one another. Or again, keeping *ἴδιον* we might alter ἐν οὖν into ἐπ' οὖν 'in addition to,' 'over and above' the 50 talents. Heraldus proposed *οὖν οὖν*, and G. H. Schaefer unsuccessfully attempts to show that ἐν may mean 'besides,' by quoting the quasi-adverbial use of ἐν δὲ in Soph. Ai. 675, O. C. 55, and O. T. 27.

[In the sense of 'in addition to' he should rather have said πρὸς than ἐπὶ. Perhaps ἐν means 'mixed up with,' i.e. out at loan to the same borrowers as his own money was. A man may borrow of me, as a banker, privately

ταλάντοις τούτοις ἀπὸ τῶν παρακαταθηκῶν τῶν τῆς 946  
6 τραπέζης ἔνδεκα τάλαντα ἐνεργὰ ἦν. μισθούμενος οὖν  
ὅδε τὴν ἐργασίαν ταύτην τὴν<sup>b</sup> τῆς τραπέζης καὶ τὰς  
παρακαταθήκας λαμβάνων, ὁρῶν ὅτι μήπω τῆς πολι-  
τείας αὐτῷ<sup>c</sup> παρ' ὑμῖν οὐσης οὐχ οἷός τε ἔσοιτο εἰς-  
πράττειν ὅσα Πασίων ἐπὶ γῇ καὶ συνοικίαις δεδανει-  
κῶς ἦν, εἴλετο μᾶλλον αὐτὸν τὸν Πασίωνα χρήστην  
ἔχειν τούτων τῶν χρημάτων ἢ τοὺς ἄλλους χρήστας,

<sup>b</sup> ταύτην τὴν Bekk. αὐτὴν Ζ cum Στ (coll. § 13). αὐτὴν τὴν Δ<sup>1</sup>.

<sup>c</sup> αὐτῷ Ζ.

£500, and I may let him have £500 more belonging to the bank. On the large profits thus made by bankers, see Boeckh, P. E. p. 127, ed. 2. P.] ἐνεργὰ.] 'Out on interest' 'profitably invested' as opposed to ἀργὰ 'lying idle.' Or. 27 § 7 τὰ τ' ἐνεργὰ αὐτῶν καὶ ὅσα ἦν ἀργὰ, § 10 ταῦτα μὲν ἐνεργὰ κατέλειπε ... τὸ δ' ἔργον αὐτῶν πεντήκοντα μναί.

παρακαταθήκη.] Plato defin. p. 415 δόμα μετὰ πίστεως. Claims for the repayment of such banking deposits form the subject of two of the forensic orations of Isocrates, the *Trapeziticus* and the *ἀμάρτυρος πρὸς Εὐθύουν*.

6. μήπω τῆς πολιτείας κ.τ.λ.] No one could lend money on the security of land unless in default of payment (Or. 35 § 12) he had the right to take possession of such land, and this right of possession was confined to citizens to the exclusion of μέτοικοι (or resident aliens) like Phormio. A special exception is recorded in the case of the Byzantines, in Aristot. Oeconom. II. 4 μετοίκων τινῶν ἐπιδεδανεικόντων ἐπὶ κτήμασιν οὐκ οὐσης αὐτοῖς ἐγκτήσεως, ἐψηφίσαντο τὸ τρίτον μέρος εἰσφέροντα τὸν βουλόμενον κυρίως ἔχειν τὸ

κτῆμα (Büchsenschütz, Besitz und Erwerb im Griechischen Alterthume, pp. 492, 3).

[Of course μήπω οὐσης, 'si nondum esset,' is very different from οὐπω οὐσης, 'cum nondum esset.' On the insecurity of lending money on houses or lands, except for citizens, see Boeckh, P. E. pp. 140 and 664 (ed. 2), who observes on this passage that "no resident alien could safely lend money upon houses or other landed property, a privilege which was confined to the citizens." P.]

ἐπὶ γῇ...δεδανεικῶς.] Cf. ἔγγυον, or ἔγγειον, δάνεισμα and Or. 34 § 23 ἔγγειοι τόκοι. (K. F. Hermann, Privatalterthümer § 49, 9 and Büchsenschütz u. s. p. 490.)

συνοικίαις.] See n. on Or. 53 § 13 τίθῃμι τὴν συνοικίαν ἑκατάδεκα μνῶν. Houses built in blocks and let out to families were commonly so called. [This is οἰκεῖν μετ' ἄλλων opposed to μονόρρυθμοι δόμοι in Aesch. Suppl. 960. The συνοικίαι were chiefly let as lodgings for the denizens, μέτοικοι. (See C. R. Kennedy, Dem. I. p. 252.) Boeckh, P. E. p. 140. P.]

ἢ τοὺς ἄλλους χρήστας.] 'Than the others, to whom Pasion had

οἷς προειμένος ἦν. καὶ οὕτω διὰ ταύτ'<sup>d</sup> ἐγράφη εἰς τὴν μίσθωσιν προσοφείλων ὁ Πασίων ἔνδεκα τάλαντα, ὥσπερ καὶ μεμαρτύρηται ὑμῖν.

- 7 Ὅν μὲν τοῖνυν τρόπον ἡ μίσθωσις ἐγένετο, μεμαρτύρηται ὑμῖν ὑπ' αὐτοῦ τοῦ ἐπικαθημένου ἐπιγενομένης δὲ ἀρρωστίας τῷ Πασίῳ μετὰ ταῦτα, σκέψασθ' ἃ διέθετο. λαβὲ τῆς διαθήκης τὸ ἀντίγραφον καὶ τὴν πρόκλησιν ταυτην<sup>e</sup> καὶ τὰς μαρτυρίας ταυτασί, παρ' οἷς αἱ διαθήκαι κεύνται.

# 8 ΔΙΑΘΗΚΗ. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

Ἐπειδὴ τοῖνυν ὁ Πασίων ἐτετελευτήκει ταῦτα δια-

<sup>d</sup> ταῦτα ζ.

<sup>e</sup> Bekk. ταύτην ζι cum Στ.

<sup>f</sup> Bekk. ἀντίγραφον ζι cum ΣτΑ<sup>1</sup>.

lent it, debtors to the bank.' Perhaps the word χρήστας is interpolated. P.]

οἷς προειμένος ἦν.] In the medial sense. Liddell and Scott s. v. προῆμι B. iii. refer to this passage for the sense 'to give away,' 'to give freely.' But it here means 'to lend' as in Plato Demod. 384. [It is a very common term, and seems to involve the notion of 'risk in letting go without full security.' P.] Cf. Or. 56 §§ 2, 48, 50.

ἐγράφη... προσοφείλων ἔνδεκα τάλ.] Or. 45 § 29 προσεγγράπται ἔνδεκα τάλαντα ὁ πατήρ (Pasion) ὀφείλων εἰς τὰς παρακαταθήκας τούτω, and § 34 ἐὼ τἀλλ' ὅσ' ἂν περὶ τῶν ἔνδεκα τάλ. ἐχοιμι εἰπεῖν, ὡς οὐκ ὀφείλων ὁ πατήρ, ἀλλ' οὗτος ὑψήρηται.

7. τοῦ ἐπικαθημένου.] 'The manager, the clerk, of the bank. Elsewhere Phormio himself is described by Apoll. as τὸν ἐπικαθήμενον ἐπὶ τῆς τραπεζῆς (Or. 49 § 17) and καθήμενον καὶ διοικοῦντα ἐπὶ τῇ τραπεζῇ (Or. 45 § 33). (K. F. Hermann, Privat-

alt. § 48, 2.)

ἀρρωστίας] Pasion's failing health is touched upon in Or. 52 § 18 ἀδυνάτως ἤδη ἔχοντα καὶ μόγις εἰς ἄστυ ἀναβαίνοντα καὶ τὸν ὀφθαλμὸν αὐτὸν προδιδόντα and in Or. 49 § 42 ἔλεγεν ἀρρωστῶν ὅτι ὀφείλοιο αὐτῷ ἔκαστον.

μαρτυρίας... παρ' οἷς.] = μ. τούτων τῶν μαρτύρων παρ' οἷς, 'the depositions of the persons to whose keeping the will has been entrusted.' (Cf. Or. 84 § 6). In times when there were no probate courts, and wills were not officially kept, it is obvious that the greatest precautions had to be taken to prevent forgeries by interested parties. In Or. 45 § 19 one Cephisophon deposes that his father had left behind him at his death, a document endorsed 'Pasion's Will,' which Apollodorus (ib. §§ 5, 22) denounces as a forgery (οὐδεπώποτε γενομένη...κατεσκευασμένη). The alleged terms are given ib. § 28, quoted in part in ὑπόθεσις i. 6 n. πρόκλησις.] To establish Pasion's will, Stephanus and two

θέμενος, Φορμίων οὕτως τὴν μὲν γυναῖκα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παῖδα ἐπετρόπευεν. ἀρπάζοντος δὲ τούτου καὶ πολλὰ ἀπὸ κοινῶν ὄντων τῶν χρημάτων ἀναλίσκειν οἰομένου δεῖν, λογιζόμενοι πρὸς ἑαυτοὺς οἱ ἐπίτροποι ὅτι, εἰ δεήσει κατὰ τὰς διαθήκας, ὅς' ἂν οὗτος ἐκ κοινῶν τῶν χρημάτων ἀναλώσῃ, τούτους<sup>8</sup> ἐξελόντας ἀντιμοιρεῖ<sup>88</sup> τὰ λοιπὰ νέμειν, οὐδ' ὅτι οὖν

<sup>8</sup> τούτους *U cum Σ.* τούτοις Bekk.

<sup>88</sup> ἀντιμοιρεῖ (*sic*) FΣΦ. τὰς ἀντιμοιρίας Bekk.

others deposed that they were present when Phormio challenged Apollodorus to open the will, and that the latter refused. In Or. 45 Apollodorus sues Stephanus for having given false evidence in the present case and discusses this challenge in §§ 8—19, denying that any such challenge ever took place or that his father left such a will.

8. Πασίων ἐτελεύτηκει.] Or. 46 § 18 ἐτελεύτησεν ἐπὶ Δυσσικῆ του ἀρχοντος (B.C. 370).

τὴν γυναῖκα λαμβάνει κ.τ.λ.] Similarly the father of Dem. left Aphobus guardian of his children, and gave him his widow with a marriage-portion and the use of his house and furniture (Or. 27 § 5). The object of such legacies was to secure a faithful performance of the guardian's trust by connecting him more closely with the family of his ward (cf. 58 § 31). Diogenes Laertius, i. 59, quotes a law, perhaps wrongly ascribed to Solon, τὸν ἐπίτροπον τῇ ὀρφανῶν μητρὶ μὴ συνοικεῖν. (K. F. Hermann, *Privatalt.* § 57, 16).

τὸν παῖδα.] i. e. Pasicles, who was a minor for 8 years (B.C. 370—362), as appears by comparing § 10 with § 37. He was probably 8 or 10 years old when his father died; his elder bro-

ther was 24 (inf. § 22).

τούτου.] The claimant Apollodorus, whom the orator purposely represents as thriftless and unscrupulous at the very first.

λογιζόμενοι.] 'The guardians, calculating among themselves, that if, by the terms of the will, it proved necessary to subtract from the common fund all that the plaintiff should have spent, and then divide the remainder equally, there would be no surplus whatever, decided in behalf of their ward on an immediate division of the property.' [Or, 'that they (the brothers) should share the property.' P.]

κοινῶν τῶν χρημάτων.] κοινῶν, predicative and emphatic.—τούτους, sc. τοὺς ἐπιτρόπους.

ἀντιμοιρεῖ.] 'Share for share,' cf. § 32 τὰ μητρῶα πρὸς μέρος ἕξους νέμεσθαι. The adverb does not appear to occur elsewhere, and its form is suspiciously like the late Greek words ἀνυνμεί, αὐτολεξεί, αὐτοψεί, παμπληθεί, πανθενεί. In earlier Greek almost the only instances found are αὐτοβοεί (Thuc.) and πανδημεί (Thuc. Andoc. Lys. Isocr.).

[A more probable reading would be τούτους ἐξελόντας ἀντιμοιρίας, 'taking out (and laying

ἔσται περίον, νείμασθαι τὰ ὄντα ὑπὲρ τοῦ παιδὸς 947  
 9 ἔγνωσαν. καὶ νέμονται τὴν ἄλλην οὐσίαν πλὴν ὧν  
 ἐμεμίσθωτο οὐτοσί· τούτων δὲ τῆς προσόδου τὴν ἡμί-  
 σεϊαν τούτῳ ἀπεδίδωσαν. ἄχρι μὲν οὖν τούτου τοῦ  
 χρόνου πῶς ἔνεστ' ἐγκαλεῖν αὐτῷ μισθώσεως; οὐ γὰρ  
 νῦν, ἀλλὰ τότε εὐθὺς ἔδει χαλεπαίνοντα φαίνεσθαι. καὶ  
 μὴν οὐδὲ τὰς ἐπιγενομένας<sup>h</sup> μισθώσεις ὡς οὐκ ἀπεί-  
 10 λοῖσθαι ἔστ' εἰπεῖν αὐτῷ. οὐ γὰρ ἂν ποτε, ἐπειδὴ δοκι-  
 μασθέντος Πασικλέους ἀπηλλάττετο τῆς μισθώσεως  
 ὅδε, ἀφήκατ' ἂν αὐτὸν ἀπάντων τῶν ἐγκλημάτων,  
 ἀλλὰ τότε ἂν παραχρῆμα ἀπητείτε, εἴ τι προσώφειλεν  
 ὑμῖν. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω, καὶ ἐνέιματο οὐ-  
 τος πρὸς τὸν ἀδελφὸν παῖδ' ὄντα, καὶ ἀφήκαν τῆς  
 μισθώσεως καὶ τῶν ἄλλων ἀπάντων ἐγκλημάτων,  
 λαβὲ ταυτηνὶ τὴν μαρτυρίαν.

<sup>h</sup> ἐπιγενομένας Z cum FΣΦ. ἐπιγεν- Bekk.

aside for the minor) equal sums to those taken on each occasion out of the general property by Apollodorus.' The syntax ἀντιμοιρεῖ νέμειν seems unnatural, to say nothing of the form of the adverb; and ἐξελόντας seems to require a definite accusative. P.]

9. ἀπεδίδωσαν.] The guardians paid Apollodorus the share due to him, viz. half the rent of the bank and shield manufactory.

ἄχρι μὲν οὖν κ.τ.λ.] 'Down to this date, then, there is not the slightest claim against Phormio in respect of the lease.' For the rather rare construction of ἐγκαλεῖν c. gen. cf. Or. 54, § 2 and Plut. Arist. 10, 9, τῆς βραδυτῆτος αὐτοῖς ἐνεκαλεῖ. In § 12 we have ἐγκαλοῦντ' ἀφορμήν.

10. δοκιμασθέντος.] The δοκιμασία (see Dict. Antiq.) took place on 'coming of age,' usual-

ly at 18, but in the case of orphans it might be accelerated a year or two. (A. Schaefer, *Dem. u. s. Zeit*, iii. 2. 19—38 *Der Eintritt der Mündigkeit nach Attischen Rechte*.)

ἀφήκαν τῆς μισθώσεως κ.τ.λ.] Or. 45 § 5 μάρτυρας ὡς ἀφήκα αὐτὸν τῶν ἐγκλημάτων παρέσχετο ψευδεῖς, καὶ μισθώσεως τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενομένης.

[The forms ἀφήκατε and ἀφήκαν and παρέδωκαν § 14 are rather unusual. The Attics prefer in the plural the inflexion of the second aorist, ἀφείμεν, ἀφείτε, ἀφείσαν. Cf. §§ 11, 14, and see Veitch's Greek Verbs.—The two brothers Apollodorus and Pasicles are directly addressed in ἀφήκατε, not the jury, as is shewn by ἀπητείτε following.—For this sense of προσοφείλεν cf. Ar. Ran. 1134. P.]



## ΜΑΡΤΥΡΙΑ.

- 11 Εὐθύς τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, ὡς ἀφείσαν  
 τούτου τῆς μισθώσεως, νέμονται τὴν τράπεζαν καὶ  
 τὸ ἀσπιδοπηγεῖον, καὶ λαβὼν αἵρεσιν Ἀπολλόδωρος  
 αἰρεῖται τὸ ἀσπιδοπηγεῖον ἀντὶ τῆς τραπέζης. καίτοι  
 εἰ ἦν ἴδια τις ἀφορμὴ τούτῳ πρὸς τῇ τραπέζῃ, τι  
 δὴ ποτ' ἂν εἴλετο τοῦτο μᾶλλον ἢ ἐκείνην; οὔτε  
 γὰρ ἡ πρόσδοδος ἦν πλείων, ἀλλ' ἐλάττων (τὸ μὲν  
 γὰρ τάλαντον, ἡ δ' ἑκατὸν μνᾶς ἔφερεν), οὔτε τὸ  
 κτῆμα ἥδιον, εἰ προσῆν χρήματα τῇ τραπέζῃ ἴδια. ἀλλ'  
 οὐ προσῆν. διόπερ σωφρονῶν εἴλετο τὸ ἀσπιδοπη-  
 γεῖον οὕτως.<sup>1</sup> τὸ μὲν γὰρ κτῆμ' ἀκίνδυνόν ἐστιν, ἡ δ' 948  
 ἐργασία προσόδους ἔχουσα ἐπικινδύνους ἀπὸ χρημάτων  
 ἀλλοτριῶν.

- 12 Πολλὰ δ' ἂν τις ἔχοι λέγειν καὶ ἐπιδεικνύναι

<sup>1</sup> οὗτος Z cum Σ. om. τΑ<sup>1</sup>.

11. αἵρεσιν.] The choice lay with him by virtue of being the elder brother.

καίτοι κ.τ.λ.] Phormio argues that if the plaintiff had had any private capital of his own in the bank, he would have chosen the banking-business in preference to the manufactory. He did not, and therefore he contends there was no such fund.—*ἴδια ἀφορμή* is private banking-stock, as opposed to deposits, *παρακατάθῃκαι* (cf. § 11).—*τάλαντον*=60 minae.

ἥδιον.] The labour and trouble and other disagreeable incidents of manufacturing shields made such a property less desirable in itself than a banking business. But the bank business was speculative, and involved the risk of losing the deposits, and therefore the manufactory, with all its drawbacks, was preferred by Apollodorus, as being at least

safe. P.]

τὸ μὲν γὰρ—*ἀλλοτριῶν*.] 'For the manufactory is a property free from risk, whereas the bank is a business yielding a hazardous (speculative, precarious) revenue from other people's money.' The bank was not a κτῆμα, but only an *ἐργασία*, not a secure property, but a precarious trading with other people's money. For *χρημάτων ἀλλοτριῶν* cf. Teles ap. Stobae. 97, 81. καὶ πῶς σπανίζουσιν (οἱ πλούσιοι) τούτων ἂν ἔχουσι; πῶς δὲ οἱ τραπέζιται, φησὶν ὁ Βίων, χρημάτων ἔχοντες αὐτά; οὐ γὰρ αὐτῶν ὄντα ἔχουσιν.

§§ 12—17. The plaintiff's claim to a sum of banking-stock alleged to have been held by the defendant may be proved groundless by many arguments: (1) Plaintiff's father is entered in the lease, not as creditor on account of banking-stock assigned to defendant, but actually as

σημεία τοῦ τοῦτον συκοφαντεῖν ἐγκαλοῦντ'<sup>κ</sup> ἀφορμὴν. ἀλλ', οἶμαι, μέγιστον μὲν ἔστιν ἀπάντων τεκμήριον τοῦ μηδεμίαν λαβεῖν ἀφορμὴν εἰς ταῦτα τουτονὶ τὸ ἐν τῇ μισθώσει γεγράφθαι προσοφείλοντα τὸν Πασίων' ἐπὶ τὴν τράπεζαν, οὐ δεδωκότα ἀφορμὴν τούτῳ, δεύτερον δὲ τὸ<sup>1</sup> τοῦτον ἐν τῇ νομῇ μηδὲν ἐγκαλοῦντα φαίνεσθαι, τρίτον δ', ὅτι μισθῶν ἑτέροις ὕστερον ταῦτα

<sup>κ</sup> ἐγκαλοῦντα Ζ.

<sup>1</sup> om. Ζ cum ΣΦ. τὸ τοῦτον Bekk. cum marg. Σ.

debtor to the bank. (2) On the partition of the property, plaintiff put in no claim to such stock. (3) After the termination of defendant's lease of the bank, plaintiff let it to others for the same sum and no less; and did not specially transfer to them any banking-stock besides. (4) The plaintiff during the life of his mother, who was perfectly familiar with all these details, made no demand on the defendant; it was only when she died that he set up a fraudulent claim, not for any banking-stock as now, but for a sum of 8000 dr. The claim was submitted to the arbitration of some relatives of the plaintiff, and upon their award the defendant for peace and quietness' sake paid the money and a second time received from the plaintiff a release of all his claims.

12. συκοφαντεῖν κ.τ.λ.] Kennedy: 'This claim of the plaintiff's to a sum of banking-stock is false and fraudulent.'—ἐγκαλοῦντ' ἀφορμὴν, the first distinct reference in the speech to the nature of the plaintiff's case. He alleges that the defendant had a grant of capital from Pasion and had appropriated it.

τουτον...τούτῳ...τούτον.] The

first two refer to the defendant, the third to the plaintiff, Apollodorus. The ambiguity arising from the same pronoun being applied to two different persons, would be readily dispelled by the orator's delivery. Cf. § 42 n.

προσοφείλοντα.] sc. 11 talents §§ 4—6.—τῇ νομῇ, § 8 fn.

μισθῶν ἑτέροις κ.τ.λ.] i. e. to Xenon and the others in § 13. The argument is: assume the defendant defrauded the plaintiff of bank-stock amounting to 20 talents. Then the stock in question could not have formed part of the business when the plaintiff let it to the later lessees. The plaintiff then should either have let it to them at lower terms than to the defendant, or have handed over to the bank an equivalent to the stock alleged to be missing. He did neither; he made no fresh transfer and he charged them the same rent. Therefore the property must have been in the same condition as when the defendant originally leased it from the plaintiff's father.—The context compels us to make Apollodorus the subject of the sentence μισθῶν—φανήσεται, but the bank, it will be remembered, became the property not of Apollodorus, but of Pasicles,

ταῦτα του ἴσου ἀργυρίου οὐ φανήσεται προσμεμισθω-  
 13 κὼς ἰδίαν ἀφορμὴν. καίτοι εἰ, ἣν ὁ πατὴρ παρέσχεν,  
 ὑπὸ τοῦδε ἀπεστέρητο, αὐτὸν νῦν προσήκεν ἐκείνους  
 ἄλλοθεν πορίσαντα δεδωκέναι. ὥς τοῖνυν ταῦτ' ἀληθῆ  
 λέγω, καὶ ἐμίσθωσεν ὕστερον Ξένωνι καὶ Εὐφραΐῳ  
 καὶ Εὐφρόνι καὶ Καλλιστράτῳ, καὶ οὐδὲ τούτοις παρέ-  
 δωκεν ἰδίαν ἀφορμὴν, ἀλλὰ τὰς παρακαταθήκας καὶ  
 τὴν ἀπὸ τούτων ἐργασίαν αὐτὴν ἐμισθώσαντο, λαβέ  
 μοι τὴν τούτων μαρτυρίαν, καὶ ὥς τὸ ἀσπιδοπηγεῖον  
 εἴλετο.

14 Μεμαρτύρηται μὲν τοῖνυν ὑμῖν, ὦ ἄνδρες Ἀθη-  
 ναῖοι, ὅτι καὶ τούτοις ἐμίσθωσαν καὶ οὐ παρέδωκαν  
 ἰδίαν ἀφορμὴν οὐδεμίαν, καὶ ἐλευθέρους ἀφείσαν ὥς  
 μεγάλην εὐπεπονθότες, καὶ οὐκ ἐδικάζοντο οὐτ' ἐκεί-  
 νοις τότε οὐτε τούτῳ. ὃν μὲν τοῖνυν χρόνον ἡ μήτηρ  
 ἔζη ἢ πάντα ταῦτ' ἀκριβῶς εἰδύα<sup>m</sup>, οὐδὲν ἔγκλημα  
 πώποτε ἐποιήσατο πρὸς τουτονὶ Φορμίωνα Ἀπολλό-  
 δωρος· ὥς δ' ἐτελεύτησεν ἐκείνη, τρισχιλίας ἐγκαλέσας 949

<sup>m</sup> ἀκριβῶς ταῦτ' εἰδύα Z cum Σ. ἀκριβῶς εἰδύα ταῦτα FΦ. ταῦτ'  
 ἀκριβῶς εἰδύα Bekk.

when the latter came of age and Phormio's lease expired; we must therefore conclude that the elder brother acted as agent on behalf of his less experienced younger brother.

13. τοῦδε...αὐτὸν.] Defendant and plaintiff respectively.—νῦν 'in that case,' referring to the hypothesis εἰ — ἀπεστέρητο. — αὐτὸν, standing first in the clause, must mean *ipsūm*.

ἐμίσθωσεν.] Granted the lease (on behalf of Pasicles). Below we have ἐμισθώσαντο, referring, as usual, to the lessees.

αὐτὴν.] 'Alone,' explained by οὐ παρέδωκεν ἰδίαν ἀφορμὴν.

14. ἐμίσθωσαν ... παρέδωκεν.] The plurals refer to the two

brothers.

ἐλευθέρους ἀφείσαν.] Xenon, Euphraeus and the other lessees appear (like Phormio) to have been slaves originally. The family shew their gratitude for their services by giving them freedom (ὡς μεγάλα εὐπεπονθότες). G. H. Schaefer less satisfactorily understands the words 'set free from all further claims:' a sense which is at first sight partly supported by καὶ οὐκ ἐδικάζοντο below.

ὥς ἐτελεύτησεν.] The speaker insinuates that Apoll. purposely waited till his mother's death, as her familiarity with all the details of her late husband's property would have thwarted

ἀργυρίου δραχμὰς πρὸς αἷς ἔδωκεν ἐκείνη δισχιλίαις τοῖς τούτου παιδίοις, καὶ χιτωνίσκον τινὰ καὶ θερά-  
 15 παιναν, ἐσυκοφάντει. καὶ οὐδ' ἐνταῦθα τούτων οὐδὲν ὦν νῦν ἐγκαλεῖ λέγων φανήσεται. ἐπιτρέψας δὲ τῷ τε τῆς ἑαυτοῦ γυναικὸς πατρὶ καὶ τῷ συγκεδηστῇ τῷ αὐτοῦ<sup>α</sup> καὶ Λυσίῳ καὶ Ἀνδρομένει, πεισάντων τούτων Φορμίωνα τουτονὶ δοῦναι δωρεὰν τὰς τρισχιλίας καὶ τὸ προσὸν καὶ φίλον μᾶλλον ἔχειν τούτον ἢ διὰ ταῦτ' ἐχθρὸν αὐτὸν εἶναι, λαβὼν τὸ σύμπαν πεντακισχιλίας, καὶ πάντων ἀφείς τῶν ἐγκλημάτων τὸ δεῦτερον εἰς τὸ

<sup>α</sup> ἑαυτοῦ Ζ.

his plots against Phormio. Her death is described by Apollodorus in Or. 50 § 60, 'While I was abroad my mother lay ill and was at death's door, and therefore little able to help in retrieving my affairs. It was just six days after my return that, when she had seen me and spoken to me, she breathed her last, when she no longer had such control over her property as to be able to give me all that she desired.' The death took place in Feb. B.C. 360.

πρὸς αἷς.] She had left Phormio's children 2000 drachmas, but Apollodorus claims more than that sum also as his own. His avaricious and mean character is shown by his claim to a χιτωνίσκος, a chemise, or 'slave's frock,' perhaps. A man who would make such demands was little likely to omit his present claims, if he had then believed in the justice of them. P.]

15. ἐπιτρέψας, κ.τ.λ.] The plaintiff submitted the claims to the arbitration of Deinias and Nicias (§ 17), his own father-in-law and brother-in-law respectively. Pollux; ἔλεγον δὲ ἐπιτρέ-

ψαι δίαταν, καὶ ἡ δίατα ἐκαλεῖτο ἐπιτροπή.

δοῦναι δωρεάν.] By 'making a present' of the 3000 drachmae, Phormio satisfies Apollodorus without admitting his legal claim to the sum.

τὸ προσὸν.] Not the 2000 drachmae of § 14; for they were already given by the mother (ἔδωκεν ἐκείνη), but the 'additional articles' χιτωνίσκος καὶ θεράπαινα. [τὸ προσὸν may however refer to πρὸς αἷς κ.τ.λ. supra. He got the 3000 and the 2000 also that had been left to Phormio's boys. He got from him 5000 in all, and gave him a full release from all further claims; and yet now again he says Phormio has kept back some of Pasion's money! But (he argues) the discharge then given justifies the παραγραφή now put in. P.]

ἀφείς...τὸ δεῦτερον.] The former release is mentioned in § 10 fin. This second release is solemnly given in the temple of Athênê on the Acropolis. Isocr. Trapez. § 20, ταῦτα συγγράψαντες καὶ ἀναγαγόντες εἰς ἀκρόπολιν Πύρωνα.....ἰδομεν αὐτῷ φυλάττειν τὰς συνθήκας.

- 16 *ιερὸν τῆς Ἀθηνᾶς ἐλθὼν, πάλιν, ὡς ὁράτε, δικάζεται, πάσας αἰτίας συμπλάσας καὶ ἐγκλήματα ἐκ παντὸς τοῦ χρόνου τοῦ πρὸ τούτου (τοῦτο γάρ ἐστι μέγιστον ἀπάντων), ἃ οὐδεπώποτ' ἤτιάσατο. ὡς τοῖνυν ταῦτ' ἀληθῆ λέγω, λαβέ μοι τὴν γνῶσιν τὴν γενομένην ἐν ἀκροπόλει, καὶ τὴν μαρτυρίαν τῶν παραγενομένων, ὅτ' ἠφίειο τῶν ἐγκλημάτων ἀπάντων Ἀπολλόδωρος, λαμβάνων τοῦτο τὸ ἀργύριον.*

## ΓΝΩΣΙΣ. ΜΑΡΤΥΡΙΑ.

- 17 *Ἀκούετε τῆς γνώσεως, ὃ ἄνδρες δικασταί, ἣν ἔγνω Δεινίας, οὗ τὴν θυγατέρα οὗτος ἔχει, καὶ Νικίας ὃ τὴν ἀδελφὴν τῆς τούτου γυναικὸς ἔχων. ταῦτα τοῖνυν λαβὼν καὶ ἀφείς ἀπάντων τῶν ἐγκλημάτων, ὥσπερ ἡ πάντων τεθνεώτων τούτων ἡ τῆς ἀληθείας οὐ γενησομένης φανεράς, δίκην τοσούτων ταλάντων λαχὼν τολμᾷ δικάζεσθαι.*
- 18 *Τὰ μὲν οὖν πεπραγμένα καὶ γεγενημένα Φορμίωνι*

° ἀφίει Ζ.

16. *συμπλάσας.*] 'Having concocted,' 'heaped together,' 'raked up.'

*τὴν γνῶσιν.*] 'The award' of the arbitrators. Or. 27, § 1, τοῖς οἰκείοις ἐπιτρέπειν and τοῖς ὑπ' ἐκείνων γνωσθεῖσιν ἐμμένειν. Cf. § 17.—*ἐν ἀκροπόλει.* So *supr.* τὸ *ιερὸν* τῆς Ἀθηνᾶς. Pollux, διήγων δ' ἐν *ιεροῖς*. Cf. Or. 54 § 26, τὸν *λίθον*, n.

*λαμβάνων.*] 'On the receipt of this money,' viz. the 5000 drachmae.

17. *τούτων.*] τῶν μαρτύρων τῶν παραγενομένων, § 16.

*τοσούτων τάλ.*] § 8, ταλάντων *εἰκοσι*.

*τολμᾷ.*] It was acting in open defiance of the law to bring an action after a full acquittance had been given.

§§ 18—21. Anticipation of the arguments likely to be brought forward by the plaintiff. He will repeat what he stated before the arbitrator, that his mother destroyed his father's papers at the defendant's instigation. If so (1) how came the plaintiff to make a partition of his patrimony, without any papers to determine its amount? Unless those claims were false and fraudulent, which the plaintiff will scarcely admit, he must have gained possession of his father's papers, and his mother could not have made away with them. (2) Why was no question raised when the plaintiff's younger brother came of age and was receiving from his guardians an account of

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πρὸς Ἀπολλόδωρον ἐξ ἀρχῆς ἅπαντ' ἀκηκόατε, ὦ  
 ἄνδρες Ἀθηναῖοι. οἶμαι<sup>p</sup> δ' Ἀπολλόδωρον τουτονὶ 950  
 οὐδὲν ἔχοντα δίκαιον εἰπεῖν περὶ ὧν ἐγκαλεῖ, ἅπερ  
 παρὰ τῷ διαιτητῇ λέγειν ἐτόλμα, ταῦτ' ἐρεῖν, ὥς τὰ  
 γράμματα ἡ μήτηρ ἠφάνικε πεισθεῖσα ὑπὸ τούτου, καὶ  
 τούτων ἀπολωλότων οὐκ ἔχει τίνα χρῆν τὴν τρόπον ταῦτ'  
 19 ἐξελέγχειν ἀκριβῶς. περὶ δὲ τούτων καὶ ταύτης τῆς  
 αἰτίας σκέψασθε ἡλικ' ἂν τις ἔχοι τεκμήρια εἰπεῖν ὅτι  
 ψεύδεται. πρῶτον μὲν γάρ, ὦ ἄνδρες Ἀθηναῖοι, τίς  
 ἂν ἐνείματο τὰ πατρῶα μὴ λαβὼν γράμματα ἐξ ὧν  
 ἔμελλεν<sup>p</sup> εἰσεσθαι τὴν καταλειφθεῖσαν οὐσίαν; οὐδὲ  
 εἰς δῆπον. καίτοι δυοῖν δέοντα εἰκοσιν ἔτη ἔστιν ἐξ  
 ὅτου ἐνείμω, καὶ οὐκ ἂν ἔχοις ἐπιδείξαι ὥς ἐνεκάλεσας

<sup>p</sup> οἶμαι Z (see Veitch, Gk. Vbs., and Dindf. Praef. p. xiii.).

<sup>p</sup> ἔμελλεν Z (see Isocr. Paneg. § 83 n.).

*their trust!* (3) *On what papers did the plaintiff base all his many law-suits for the recovery of large sums due to his father?*

18. τὰ μένοιν κ.τ.λ.] Transition from the διήγησις or πρόθεσις to the πίστις or 'proofs' (Ar. Rhet. III. 13), from the brief recital of the transactions between plaintiff and defendant (§§ 4—17) to the legal and other arguments.

τῷ διαιτητῇ.] Pollux: πᾶλαι δ' οὐδεμία (?) δίκη πρὶν ἐπὶ διαιτητὰς ἐλθεῖν εἰσέγγετο. Cf. 54 § 26, ἡ δαῖτα n.

τὰ γράμματα.] Not Pasion's will, but his private papers and ledgers or banking-books, τὰ γράμματα τὰ τραπεζικὰ (Or. 49 §§ 43, 59 quoted below in note on § 21, ἐκ ποίων γραμμάτων). Cf. Or. 49 § 5, οἱ τραπεζίται εἰώθασιν ὑπομνήματα γράφεισθαι ὧν τε ἀνάσσει χρημάτων, κ.τ.λ. and Or. 52 § 4.

19. ἐνείματο.] 'Whowould have taken his share of his father's property, if he had not the books from which alone he could know the amount of property left?' He refers to the division of the patrimony decided on by the guardians in consequence of the elder brother spending largely out of the common fund, § 8 fin. This event took place eighteen years before the date of the speech; which, if we could assume that the partition was in the same year as the father's death, viz. 370, would belong to B.C. 352. This however we cannot assume, indeed the language of § 8, πολλὰ ἀναλίσκειν, κ.τ.λ., implies that the elder brother's course of extravagance lasted some time before the partition was decided on. We may therefore perhaps place the partition in B.C. 368, and the speech in B.C. 350. See Introduction.

- 20 *πώποτε ὑπὲρ τῶν γραμμάτων. δεύτερον δὲ, τίς οὐκ ἂν, ἥνικα ὁ Πασικλῆς ἀνὴρ γεγονώς ἐκομίζετο τὸν λόγον τῆς ἐπιτροπῆς, εἰ δι' αὐτοῦ τὰ γράμματα ὥκνει τὴν μητέρα αἰτιάσθαι διεφθαρκέσαι, τούτῳ ταῦτ' ἐδήλωσεν; ὥπως διὰ τούτου ταῦτα ἠλέγχθη; τρίτον δ', ἐκ ποίων γραμμάτων τὰς δίκας ἐλάγχχανες; οὗτος γὰρ πολλοῖς τῶν πολιτῶν δίκας λαγχάνων πολλὰ χρήματα εἰσπέρασται, γράφων εἰς τὰ ἐγκλήματα "ἔβλαψέ με" ὁ δεῖνα οὐκ ἀποδιδούς ἐμοὶ τὸ ἀργύριον, ὃ κατέλιπεν*<sup>9</sup>
- 21 *"ὁ πατὴρ ὀφείλοντα ἀντὶν ἐν τοῖς γράμμασιν." καίτοι εἰ ἠφάνιστο τὰ γράμματα, ἐκ ποίων γραμμάτων τὰς δίκας ἐλάγχχεν; ἀλλὰ μὴν ὅτι ταῦτ' ἀληθὴ λέγω, τὴν μὲν νομὴν ἀκηκόατε, ἣν ἐνείματο, καὶ μεμαρτύρηται*

<sup>9</sup> κατέλειπεν Z cum Σ. -έλειπεν Bekk.

*ὑπὲρ τῶν γραμμάτων.]* so. *περὶ τῆς ἀφανίσσεως αὐτῶν.*

20. *ἀνὴρ γεγονώς.]* Cf. § 10, *δοκιμασθέντος Πασικλέους.*

*ἐκομίζετο κ.τ.λ.]* 'Was getting in an account of the guardianship,' i.e. the accounts from his guardians, Or. 27, κατ' Ἀρόβου ἐπιτροπῆς, § 50, *πότερον ἐπιτροπευθεὶς ἀπεδέξατ' ἂν τοῦτον τὸν λόγον παρὰ τῶν ἐπιτρόπων;*

*τούτῳ...τούτου.]* It seems best to refer these pronouns to Pasicles (with Reiske and Kennedy); not to Apollodorus (with G. H. Schaefer). The sense is: 'Assuming Apollodorus hesitated with his own lips to accuse his mother of destroying the documents; at any rate, when Pasicles came of age and was in course of receiving the report of his guardians' administration, is there any one who, under the circumstances, would not have stated the fact to his younger brother, and by his instrumentality had the matter

investigated?'

*ὥπως ἠλέγχθη.]* inf. § 47 *ἴνα, 'that so they might be proved true or false,' &c. P.]*

*πολλὰ χρήματα εἰσπέρασται.]* 'Hé has succeeded in recovering large sums of money.' The famous general Timotheus, under pressure of political exigencies, in the years 874 to 372 B.C., borrowed more than forty-four minae from the banker Pasion, on whose death his son Apollodorus sues Timotheus for payment in a speech still extant, belonging probably to the year B.C. 362. (Or. 49, πρὸς Τιμόθεον ὑπὲρ χρέως.) Cf. infr. §§ 36 and 54.

21. *ἐκ ποίων γραμμάτων.]* If there were no papers, then the grounds of your actions were fraudulent, *συκοφανταίαι*, inf. In Or. 49, Pasion's papers are expressly cited, e.g. § 43, *κελεύοντος ἐνεγκεῖν τὰ γράμματα ἀπὸ τῆς τραπεζῆς καὶ ἀντίγραφα αὐτοῦτοι...ἐξενέγκας ἔδωκα ζητεῖν.*

ὑμῖν τῶν δὲ λήξεων τούτων ἀναγνώσεται ὑμῖν τὰς μαρτυρίας. λαβὲ τὰς μαρτυρίας μοι.

### ΜΑΡΤΥΡΙΑΙ.

Οὐκοῦν ἐν ταύταις ταῖς λήξεσιν ὁμολόγηκεν ἀπει- 951  
ληφέναι. τὰ τοῦ πατρὸς γράμματα· οὐ γὰρ δὴ συκο-  
φαντεῖν γε, οὐδ' ὦν οὐκ ὀφείλον οὗτοι δικάζεσθαι  
φήσειεν αὖν.

- 22 Νομίζω τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, μεγάλων καὶ πολλῶν ὄντων ἐξ ὧν ἔστιν ἰδεῖν οὐκ ἀδικούντα Φορμίωνα τουτουῖ, μέγιστον ἀπάντων εἶναι, ὅτι Πασικλῆς, ἀδελφὸς ὧν Ἀπολλοδώρου τουτουῖ, οὔτε δίκην εἰληχεν οὔτ' ἄλλ' οὐδὲν ὧν οὗτος ἐγκαλεῖ. καίτοι οὐ δῆπου τὸν μὲν παῖδα ὑπὸ τοῦ πατρὸς καταλειφθέντα, καὶ οὐ τῶν ὄντων κύριος ἦν, ἐπίτροπος καταλελειμμένος, οὐκ αὖν ἡδίκηκε, σὲ δὲ, ὅς ἀνὴρ κατελείφθης τέτταρα καὶ

τὰ γράμματα καὶ ἐκγράφεσθαι ἔστα οὗτος ὀφείλεν, and § 59, τοῖς γράμμασι τοῖς τραφεζτικοῖς.

λήξεων μαρτυρίας.] 'The depositions in support of' (or 'verifying') 'these complaints.' For λήξει, cf. supr. δίκας ἐλάγχαεν, also Or. 45 § 50, τῇ τοῦ διώκοντος λήξει ἢ ἐγὼ τούτῳ ψευδομαρτυρίων ἀληθεῖα and Or. 83 § 85, ἐγκέκληκε καὶ...τὴν λήξιν πεποίηται.

§ 22. Argument from the silence of plaintiff's younger brother. *Pasicles, as a minor, had been much more liable to be wronged by the defendant, who as testamentary guardian had control over his ward's property. Pasicles makes no complaint. Therefore (it is tacitly assumed) he had no complaint to make. A fortiori defendant is not likely to have wronged the plaintiff, who at his father's death was a man of four and twenty, and fully able to defend himself.*

Φορμίωνα τουτουῖ.] τουτουῖ need not refer to Apollodorus, but may be taken with Φορμίωνα, cf. infr. Ἀπολλοδώρου τουτουῖ. οὐδ' ἄλλ' κ.τ.λ.] sc. οὔτε ἄλλο οὐδὲν ἐγκαλεῖ ὧν οὗτος (ἐγκαλεῖ) τόν.] Construe with καταλειφθέντα, παῖδα being a predicate.

κύριος...ἐπίτροπος.] Cf. Or. 88 § 6, τῶν ἐπιτρόπων οἱ μετὰ τὸν ἐκείνου θάνατον τῶν ἡμετέρων ἐγένοντο κύριοι.

σὲ δὲ.] sc. ἀνὴρ ἡδίκηκε. Notice the double force of the negative, οὐ δῆπου οὐκ αὖν ἡδίκηκε, 'Surely he would not have abstained from wronging one who had been left a minor by his father, and over whose property he had a legal power and authority, as having been left guardian of it, and yet have wronged you,' &c. So inf. § 46, οὐδὲ τὸν Φορμίωνα ἐκείνος οὐχ ὀρέ. [Expectabam, οὐ δῆπου σὲ μὲν αὖν ἡδίκηκε, τὸν δὲ παῖδα οὐ. Shilleto, De Fals. Leg. § 390, not. crit. P.]



εἴκοσιν ἔτη γεγονώς, καὶ ὑπὲρ σαυτοῦ ῥαδίως ἂν τὰ δίκαια ἐλάμβανες εὐθύς, εἴ τι ἡδικοῦ. οὐκ ἔστι ταῦτα. ὥς τοίνυν ταῦτ' ἀληθῆ λέγω καὶ ὁ Πασικλῆς οὐδὲν ἐγκαλεῖ, λαβέ μοι τὴν τούτου μαρτυρίαν.

## ΜΑΡΤΥΡΙΑ.

- 23 Ἄ τοίνυν ἤδη περὶ αὐτοῦ τοῦ μὴ εἰσαγωγίμου εἶναι τὴν δίκην δεῖ σκοπεῖν ὑμᾶς, ταῦτ' ἀναμνήσθητε ἐκ τῶν εἰρημένων. ἡμεῖς γὰρ, ὦ ἄνδρες Ἀθηναῖοι, γεγενημένου μὲν διαλογισμοῦ καὶ ἀφέσεως τῆς τραπέζης καὶ τοῦ ἀσπιδοπηγείου τῆς μισθώσεως, γεγενημένης δὲ διαίτης καὶ πάλιν πάντων ἀφέσεως, οὐκ ἑώντων τῶν νόμων δίκας ὦν ἂν ἀφῇ τις ἅπαξ λαγχάνειν,
- 24 συκοφαντούντος τούτου καὶ παρὰ τοὺς νομοὺς δικαζομένου παρεγραψάμεθα ἐκ τῶν νόμων μὴ εἶναι τὴν δίκην εἰσαγωγίμον. ἴν' οὖν εἰδῇθ' ὑπὲρ οὗ τὴν ψήφον οἱ-

\* Ἰστέ Ζ cum Σ. εἰδῇθ' Bekk.

ὁ Πασ. οὐδὲν ἐγκαλεῖ.] 'Brings no claim against Phormio,' i.e. for property of his father's withheld. Cf. Or. 45, κατὰ Στεφ. A §§ 83, 84, where Apollodorus meets the objection arising from the silence of Pasiolos by broaching a suspicion that he is his half-brother only and by insinuating he is really a son of Archippe and Phormio. 'Say no more, pray, of Pasiolos; no! let him be called your son, Phormio, not your master; and my opponent (he is bent upon it)—not my brother.'

§§ 23—25. The speaker now passes from the arguments in support of the main issue (or the case upon its merits) to those on which the defendant raises a special plea in bar of action.

The plaintiff's case cannot

come before the court because he has given the defendant a discharge from the original lease of the Bank and Manufactory, and a second discharge from a subsequent claim which was settled by arbitration; and the laws allow no right of action where a release and discharge have been given or received.

23. μὴ εἰσαγωγίμον.] Cf. ὑπόθεσις. l. 23, n. — διαλογισμοῦ, a reckoning up, or producing of accounts as between the two parties, Phormio and Apoll. Cf. § 60.

ἀφέσεως — μισθώσεως.] The order is (γεγενημένης) ἀφέσεως τῆς μισθ. τῆς τραπέζης κ.τ.λ. Cf. § 24, ἡφείκει τῆς μισθώσεως and supr. § 10.

διαίτης κ.τ.λ.] § 16.

24. ἐκ τῶν νόμων.] Contrasted with παρὰ τοῦ νόμου. As he brought his action contrary to the

σετε, τόν τε νόμον ὑμῖν τοῦτον ἀναγνώσεται καὶ τὰς μαρτυρίας ἐφεξῆς τῶν παρόντων, ὅτ' ἠφίει<sup>α</sup> τῆς μισθώ- 952  
σεως καὶ τῶν ἄλλων ἀπάντων ἐγκλημάτων Ἀπολλό-  
δωρος Φορμίωνα<sup>α</sup>. λαβέ μοι τὰς μαρτυρίας ταυτασὶ  
καὶ τὸν νόμον.

## ΜΑΡΤΥΡΙΑΙ. ΝΟΜΟΣ.

- 25 Ἀκούετε τοῦ νόμου λέγοντος, ὃ ἄνδρες Ἀθηναῖοι,  
τά τε ἄλλα ὧν μὴ εἶναι δίκας καὶ ὅσα τις ἀφῆκεν ἢ  
ἀπήλλαξεν. εἰκότως<sup>α</sup> εἰ γὰρ ἐστὶ δίκαιον, ὧν ἂν ἀπαξ  
γένηται δίκη, μηκέτ' ἐξεῖναι δικάζεσθαι, πολὺ τῶν  
ἀφεθέντων δικαιότερον μὴ εἶναι δίκας. ὁ μὲν γὰρ ἐν  
ὑμῖν ἡττηθεὶς τάχ' ἂν εἴποι τοῦτο ὡς ἐξηπατήθητε  
ὑμεῖς<sup>α</sup>. ὁ δὲ αὐτοῦ φανερώς καταγνοὺς καὶ ἀφείς καὶ  
ἀπαλλάξας, τίν' ἂν ἐαυτὸν αἰτίαν αἰτιασάμενος τῶν

<sup>α</sup> ἀφίει Z.

<sup>α</sup> om. Z cum ΣτΑ<sup>1</sup>. add. Bekk.

law, we have put in an objection to it which is fully allowed by the law.

25. ἀκούετε κ.τ.λ.] Or. 88, παραγραφή πρὸς Νανσίμαχον, § 5, ἀκούετε τοῦ νόμου σαφῶς λέγοντος ἕκαστα ὧν μὴ εἶναι δίκας, ὧν ἐν ἐστίν, ὁμοίως τοῖς ἄλλοις κύριον, περὶ ὧν ἂν τις ἀφῇ καὶ ἀπαλλάξῃ, μὴ δικάζεσθαι.

ὧν μὴ εἶναι δίκας.] Infin. in relative clause influenced by λέγοντος. 'Among other cases in which an action cannot be maintained, those especially in which a discharge and release have been given or received.'

εἰ γὰρ κ.τ.λ.] The sense is, 'If it is just that, when once a case has been tried, it should not be tried again, even although the defeated litigant might fairly plead that the court had been imposed upon, a fortiori there is no ground for re-opening the question when a man has judged his

own case and has palpably decided against himself by giving and receiving a discharge.' Cf. Or. 87, § 20.

αὐτοῦ...καταγνοὺς.] The two subsequent participles are subordinate in construction to καταγνοὺς. 'He who has clearly condemned (given a verdict against) himself by both granting and getting a release and discharge.' Madvig Gr. Synt. § 176, d.

ἀφείς καὶ ἀπαλλάξας.] It is clear the words do not mean the same thing, for below we have γέγονεν ἀμφοτέρω<sup>α</sup> καὶ γὰρ ἀφῆκε καὶ ἀπήλλαξε. ἀφίεναι is used of the lender, or the landlord, who, on settlement of his claims, releases the borrower or the tenant from all further liability (§§ 10, 15, 16, 17, 24). ἀπαλλάττειν refers to the debtor or tenant getting quit of his creditor or landlord by discharging or compromising the debt (34 § 22 τοὺς δανείσαν-

αὐτῶν πάλιν εἰκότως δικάζοιτο; οὐδεμίαν δὴπου. διόπερ τοῦτο πρῶτον ἔγραψεν ὁ τὸν νόμον θεὸς ὢν μὴ εἶναι δίκας, ὅσα τις ἀφῆκεν ἢ ἀπήλλαξεν. ἂ τῷδε γέγονεν ἀμφοτέρω· καὶ γὰρ ἀφῆκε καὶ ἀπήλλαξεν. ὥς δ' ἀληθῆ λέγω, μεμαρτύρηται ὑμῖν, ὦ ἄνδρες Ἀθηναῖοι.

26 Λαβὲ δὴ μοι καὶ τὸν τῆς προθεσμίας νόμον.

### ΝΟΜΟΣ.

Ὁ μὲν τοίνυν νόμος, ὦ ἄνδρες Ἀθηναῖοι, σαφῶς οὕτως τὸν χρόνον ὥρισεν Ἀπολλόδωρος δ' οὕτως ἐπαρρηλυθῶτων ἐτῶν πλέον ἢ εἴκοσι τὴν ἑαυτοῦ συκοφαντίαν ἀξιοῖ περὶ πλείονος ὑμᾶς ποιήσασθαι τῶν

τας ἀπῆλλαξεν). Settling a cross account between lessor and lessee (e.g. Apoll. and Phormio) would involve a double release and quittance on either side.

The present passage is the subject of the following article in Harpocration. ἀφῆκε καὶ ἀπαλλάξας· τὸ μὲν ἀφῆκε ὅταν ἀπολύσῃ τις τινα τῶν ἐγκλημάτων ὃν ἐρεκάλει αὐτῷ, τὸ δὲ ἀπαλλάξας, ὅταν πείσῃ τὸν ἐγκαλοῦντα ἀποστήναι καὶ μηκέτι ἐγκαλεῖν (recte)· Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ. ἔστι δὲ καὶ οὕτως εἰπεῖν, ὅτι ἀφῆκε μὲν τις αὐτῶν μόνον ὃν ἀν ἐγκαλῇ, ἀπαλλάττει δὲ, ὅταν μὴδὲ ἄλλον τινα λόγον ὑπολίπηται ἑαυτῷ πρὸς τὸν ἐγκαλοῦμενον. Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ "ὡς ἀπαλλαγὴ τις αὐτῷ γένηται παρ' ὑμῶν κυρία." Cf. Or. 37 §§ 1, 16, 19; Or. 38 § 5; Or. 38 § 8. Bekk. Anecd. pp. 202, 469.

[From the frequency of this legal formula, though a shade of difference may be traced, and perhaps originally existed, between these verbs, I agree with Mr Kennedy (Dem. Pant. p. 280)

that it had passed into a technical expression, and that practically they became synonyms. The grammarians were fond of 'hair-splitting.' P.]

§ 26. *The plaintiff's suit is also inadmissible for another reason; it contravenes the statute of limitations, in which the term of five years is fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff puts forward his claim after a lapse of more than twenty years.*

προθεσμίας νόμον.] (See Dict. Antiq. s.v.)—Harpocr. Δημοσθένος ὑπὲρ Φορμίωνος τὴν τῶν ἐτῶν ἀν λέγοι προθεσμίαν ὁ ῥήτωρ, ὡς ἐν τῷ λόγῳ ὑποσημαίνει. See Or. 38 §§ 17, 27, and cf. Isaëus, 3<sup>rd</sup> § 58, and Plato Leg. p. 954<sup>c</sup>. (Caillemet, *la Prescription à Athènes*, 1869, and K. F. Hermann, *Privatalt.* § 71, 5 and 6.)

πλέον ἢ εἴκοσι.] The speaker apparently goes back to the time of Pasion's lease of the banking business to Phormio, which cannot well have been later than B.C. 371, when Pasion was so infirm that he died a year after.

νόμων, καθ' οὓς ὁμωμοκότες δικάζετε. καίτοι πᾶσι  
 μὲν τοῖς νόμοις προσέχειν εἰκός ἐστ' ὑμᾶς, οὐχ ἥκιστα  
 27 δὲ τούτῳ, ὃ ἄνδρες Ἀθηναῖοι. δοκεῖ γάρ μοι καὶ ὁ  
 Σόλων οὐδενὸς ἄλλον ἔνεκα θείναι αὐτὸν ἢ τοῦ μὴ  
 συκοφαντεῖσθαι ὑμᾶς. τοῖς μὲν γὰρ ἀδικουμένοις τὰ  
 πέντε ἔτη ἱκανὸν ἡγήσατ' εἶναι εἰσπράξασθαι· κατὰ 953  
 δὲ τῶν ψευδομένων τὸν χρόνον ἐνόμισε σαφέστατον  
 ἔλεγχον. ἐσσεσθαι. καὶ ἅμα<sup>α</sup> ἐπειδὴ ἀδύνατον ἔγνω ὃν  
 τοὺς τε συμβάλλοντας καὶ τοὺς μάρτυρας αἰεὶ ζῆν,  
 τὸν νόμον ἀντὶ τούτων ἔθηκεν, ὥπως μάρτυς εἴη τοῦ  
 δικαίου τοῖς ἐρήμοις.

28 Θαυμάζω τοίνυν ἔγωγ', ὃ ἄνδρες δικασταί, τί ποτ'

<sup>α</sup> Bekk. καὶ ἅμα καὶ Ζ cum Σ.

This would bring the date of the speech to B.C. 351 at the earliest, and B.C. 350 cannot be far wrong. See Introduction.

καθ' οὓς ὁμωμοκότες κ.τ.λ.] Pol-  
 lux: ὁ ὅρκος ἦν τῶν δικαστῶν, περὶ  
 μὲν ὧν νόμοι εἰσι, ψηφισῆσθαι  
 κατὰ τοὺς νόμους, περὶ δὲ ὧν μὴ  
 εἰσι, γνώμῃ τῇ δικαιοδότη.

27. δοκεῖ ὁ Σόλων.] A favourite  
 piece of clap-trap, to remind the  
 dicasts of the solemnity and  
 high authority of the law they  
 administer.

τοῖς ἀδικουμένοις...τῶν ψευδο-  
 μένων.] i.e. The legal term  
 of five years would be quite  
 sufficient for injured parties  
 to recover their rights if their  
 claim were an honest one, where-  
 as those who set up false  
 claims, (a pointed thrust at the  
 present plaintiff,) would be con-  
 victed by the fact that they had  
 allowed the statutable period to  
 elapse without taking action.  
 ('Ἐλεγχον ἐσσεσθαι sc. si per tot  
 annos iacuisent. G. H. Schae-  
 fer.) τῶν ψευδομένων is some-  
 times wrongly supposed to im-  
 ply that as in Roman law

there was no statute of li-  
 mitations against right of re-  
 covery of things stolen, (*quod  
 subreptum erit, eius rei aeterna  
 auctoritas esto*), so in Attic law  
 there was none in case of false-  
 hood, i.e. that even after five  
 years a claim based on a false  
 assertion might be disputed.  
 (Telfy, *Corpus iuris Attici* §1587,  
 and K. F. Hermann, *Privatalt.*  
 § 71, 6.) Here therefore it  
 merely means κατὰ τῶν συκο-  
 φαντούντων.

τὰ πέντε ἔτη.] The well-  
 known legal term of five years.

τὸν νόμον ἀντὶ τούτων κ.τ.λ.]  
 That is, 'The contracting parties  
 themselves, and the witnesses to  
 that contract, could not live for  
 ever; and therefore the legisla-  
 tor laid down the law, with its  
 limit of time, designing that, in  
 lieu of living witnesses, the des-  
 titute should find therein a death-  
 less witness on the side of right.'

§§ 28—32. Plaintiff's pro-  
 bable reply anticipated. Surely  
 he will not ask his audience to  
 resent the defendant's marriage  
 with the plaintiff's mother. A-

ἐστὶν ἂ πρὸς ταύτ' ἐπιχειρήσει λέγειν Ἀπολλόδωρος οὐτοσί. οὐ γὰρ ἐκεῖνό γ' ὑπέιληφεν, ὥς ὑμεῖς, μηδὲν ὀρώντες εἰς χρήματα τοῦτον ἡδίκημένον, ὀργιείσθ' ὅτι τὴν μητέρ' ἔγνημεν αὐτοῦ Φορμίων. οὐ γὰρ ἀγνοεῖ τοῦτο, οὐδ' αὐτὸν λέληθεν, οὐδ' ὑμῶν πολλοὺς, ὅτι Σωκράτης ὁ τραπεζίτης ἐκεῖνος, παρὰ τῶν κυρίων ἀπαλλαγείς ὥσπερ ὁ τούτου πατήρ, ἔδωκε Σατύρῳ  
 29 τὴν ἑαυτοῦ γυναῖκα, ἑαυτοῦ ποτὲ γενομένην. ἕτερος Σωκλῆς τραπεζιτεύσας ἔδωκε τὴν ἑαυτοῦ γυναῖκα Τιμοδήμῳ τῷ νῦν ἔτ' ὄντι καὶ ζῶντι, γενομένην ποτὲ αὐτοῦ<sup>z</sup>. καὶ οὐ μόνον ἐνθάδε ταῦτα ποιοῦσιν οἱ περὶ τὰς ἐργασίας ὄντες ταύτας, ὧ ἄνδρες Ἀθηναῖοι, ἀλλ' ἐν Αἰγίνῃ ἔδωκε Στρυμόδωρος Ἑρμαίῳ τῷ ἑαυτοῦ οἰκέτῃ τὴν γυναῖκα, καὶ τελευτησάσης ἐκείνης ἔδωκε πάλιν

<sup>z</sup> ἑαυτοῦ Z.

mong bankers, there are many precedents for such an arrangement, and on grounds of expediency, as the only means of keeping up the business, Pasion acted prudently in directing that Phormio should marry his widow and thereby binding him more closely to his own household.

As to the point of honour, 'you may turn up your nose at Phormio's marrying into your family, but remember that in high character, he is more like your father than you are.'

That the marriage was directed by Pasion is not only expressly proved by the will, but is inferentially concluded from the plaintiff's own admission; for on his mother's death he permitted her two children by Phormio to share her property equally with himself and Pasicles, her two children by Pasion, and thus allowed the legality of this second marriage.

28. μηδὲν ὀρώντες.] i.e. *ἢ καὶ μηδὲν ὀρᾶτε*. Goodwin, *Moods and Tenses*, § 52, 1.

παρὰ τῶν κυρίων ἀπαλλαγείς ὥσπερ ὁ τούτου πατήρ.] A very close parallel. The banker referred to, like the plaintiff's father, had himself been a slave once, had been set free by his masters, and had given his wife in marriage to one who was formerly his slave. Cf. § 43 fin. and § 48 ἐγένετο Πασίων Ἀρχεστράτου. [On ἐκεῖνος see Or. 40 § 28.]

29. ὄντι καὶ ζῶντι.] Who is still 'alive and in being.' The redundancy is intended to strengthen the emphasis. Cf. De Corona § 72 τὴν Μασῶν Λείαν καλουμένην τὴν Ἑλλάδα ὄσαν ὀφθῆναι ζώντων καὶ ὄντων Ἀθηναίων.

τελευτησάσης...ἔδωκε τὴν θυγατέρα.] After the will had been made, the wife apparently died before the husband and

- τὴν θυγατέρα τὴν ἑαυτοῦ. καὶ πολλοὺς ἂν ἔχοι τις  
 30 εἰπεῖν τοιοῦτους. εἰκότως· ὑμῶν μὲν γὰρ, ὃ ἄνδρες  
 Ἀθηναῖοι, τοῖς γένει πολίταις οὐδὲ ἐν πλῆθος χρημάτων  
 ἀντὶ τοῦ γένους καλὸν ἐστὶν ἐλέσθαι· τοῖς δὲ τοῦτο  
 μὲν δωρεὰν ἢ παρ' ὑμῶν ἢ παρ' ἄλλων τινῶν λαβοῦσι,  
 τῇ τύχῃ δ' ἐξ ἀρχῆς ἀπὸ τοῦ χρηματίσασθαι καὶ ἐτέρων  
 πλείω κτήσασθαι καὶ αὐτῶν τούτων ἀξιοθεῖσι, ταῦτ'  
 ἐστὶ φυλακτέα. διόπερ Πασίων ὁ πατήρ ὁ σὸς οὐ  
 πρῶτος οὐδὲ μόνος, οὐδ' αὐτὸν ὑβρίζων οὐδ' ὑμᾶς τοὺς 954  
 υἱεῖς, ἀλλὰ μόνην ὁρῶν σωτηρίαν τοῖς ἑαυτοῦ πρόγασιν,  
 εἰ τοῦτον ἀνάγκη ποιήσειεν οἰκεῖον ὑμῖν, ἔδωκε τὴν  
 31 ἑαυτοῦ γυναῖκα, μητέρα δ' ὑμετέραν τούτῳ. πρὸς  
 μὲν οὖν τὰ συμφέροντα ἔαν ἐξετάζης, καλῶς βεβου-  
 λευμένον αὐτὸν εὐρήσεις· εἰ δὲ πρὸς γένους δόξαν

the latter then gave his daughter in marriage to his former servant. The first *ἔδωκε* therefore must mean, 'directed in his will that, after his own death, his widow should marry Hermaeus.'

80. *ὅμῳ...τοῖς γένει πολίταις κ.τ.λ.*] A compliment to the audience, designed to smoothe the way for what might otherwise prove an invidious reference to the money-making of bankers in general and to the wealth of Pasion in particular. 'For you gentlemen of Athens, you who are citizens by birth, it is discreditable to prize any amount of money, however large, more highly than that honourable birth (lit. 'no amount of wealth is honourable for you to accept in place of your free birth;') but those who (like Pasion) have received the rights of citizenship as a free gift either from yourselves or from others, and who, thanks in the first instance to their good fortune, were deemed

worthy of the selfsame privileges, by reason of having prospered in money-making and acquired more wealth than their neighbours, must do their best to preserve their pecuniary advantages.'

The sense is, 'though it would be wrong to prefer wealth to citizenship, it would also be unreasonable to be careless of the wealth which has gained you that very honour and privilege.'

*αὐτὸν ὑβρίζων κ.τ.λ.*] Disgracing, outraging, casting contempt on, himself and his family. Though you threatened Phormio with a *γραφὴ ὕβρεως* for marrying your mother (Or. 45 § 3—4), your father was guilty of no *ὕβρις* to his family in arranging for that marriage. *ἀνάγκη.*] *Necessitate*, 'by a family tie.'

*ὅμῳ...ὑμετέραν.*] 'You and yours.' 'Your family.' Cf. Or. 55 § 5, n.

ἀναίνει<sup>7</sup> Φορμίωνα κηδεστήν, ὅρα μὴ γελῶιον ἢ σὲ ταῦτα λέγειν. εἰ γὰρ τις ἔροιτό σε, ποῖόν τιν' ἡγεί<sup>8</sup> τὸν πατέρα τὸν σεαυτοῦ<sup>9</sup> εἶναι, χρηστὸν εὖ οἶδ' ὅτι φήσειας ἄν. πότερον οὖν οἷε μᾶλλον εἰκέναι τὸν τρόπον καὶ πάντα τὸν βίον Πασίῳνι σαυτὸν ἢ τουτονί; ἐγὼ μὲν 32 γὰρ εὖ οἶδ' ὅτι τοῦτον. εἰθ' ὅς ἐστιν ὁμοιότερος σοῦ τῷ σῷ πατρὶ, τοῦτον, εἰ τὴν μητέρα τὴν σὴν ἐγῆμεν, ἀναίνει<sup>7</sup>; ἀλλὰ μὴν ὅτι γε δόντος καὶ ἐπισκῆψαντος τοῦ σοῦ πατρὸς ταῦτ' ἐπράχθη, οὐ μόνον ἐκ τῆς διαθήκης ἐστὶν ἰδεῖν, ὡς ἄνδρες Ἀθηναῖοι, ἀλλὰ καὶ σὺ μάρτυς αὐτὸς γέγονας. ὅτε γὰρ τὰ μητρῷα πρὸς μέρος ἡξίους νέμεσθαι, ὄντων παιδῶν ἐκ τῆς γυναικὸς Φορμίῳνι τούτῳ, τότε ἀμολόγεις κυρίως δόντος τοῦ πατρὸς τοῦ σοῦ κατὰ τοὺς νόμους αὐτὴν γεγαμῆσθαι. εἰ γὰρ αὐτὴν εἶχε λαβὼν ἀδίκως ὅδε μηδεὶς δόντος, οὐκ ἦσαν οἱ παῖδες κληρονόμοι, τοῖς δὲ μὴ κληρονόμοις οὐκ ἦν μετουσία τῶν ὄντων. ἀλλὰ μὴν ὅτι ταῦτ' ἀληθῆ λέγω

<sup>7</sup> ἀναίνει Ζ.

<sup>8</sup> ἡγεί Ζ.

<sup>9</sup> σεαυτοῦ Ζ.

31. πρὸς γένους δόξαν.] So. βλέπων.

ἀναίνει.] 'Disdain,' 'soorn,' 'disown,' 'turn up your nose at' in family pride. Harpocr. ἀναίνεσθαι κοινῶς μὲν τὸ ἀρνεῖσθαι, ἰδίως δὲ ἐπὶ τῶν κατὰ τοὺς γάμους ...λέγεται. Δημ. ἐν τῇ ὑπὲρ Φορμ. παραγραφῇ.—κηδεστήν in general a relation by marriage, here used of the stepfather.

σὲ ταῦτα λέγειν.] Notice the emphatic pronoun.

[τοῖον—πότερον. In Greek, the difference between the direct and the indirect question (*qualem putas*, and *qualem putes*) cannot be expressed from the 'want of 'subjunctivity.' It is doubtful whether πότερον is here masculine, in which case a comma should be placed at Πασίῳνι. P.]

32. δόντος κ. ἐπισκῆψαντος.] By your father's special grant and injunction.

πρὸς μέρος.] 'Share and share alike,' § 8, ἀντιμοιρεῖ νέμειν, νέμεσθαι. On παῖδων...Φορμίῳνι see note on τὸ τέταρτον μέρος infr.

οὐκ ἦσαν κληρονόμοι.] The proposition is categorically, not conditionally stated, 'then the children were not heirs; and if they were not heirs, then they had no share in the property.' The right of inheritance was confined to the children born ἐξ ἀσπῆς καὶ ἐγγνητῆς γυναικὸς Isae. de Ciron. § 19, pro Euphil. § 9. Dem. Or. 57 § 53 ἐξῆν ταῦτοις (τοῖς συγγενέσι) εἰ νόθος ἢ ξένος ἦν ἐγὼ, κληρονόμος εἶναι τῶν ἐμῶν πάντων. Arist. Aves, 1640—73. (K. F. Hermann Privatalit. § 29, 5 and § 57, 2.)

μεμαρτύρηται τῷ τὸ τέταρτον μέρος λαβεῖν καὶ ἀφεῖναι τῶν ἐγκλημάτων ἀπάντων.

- 33 Κατ' οὐδὲν τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, δίκαιον οὐδὲν ἔχων εἰπεῖν ἀναιδεστάτους λόγους ἐτόλμα λέγειν πρὸς τῷ δαιτητῇ, περὶ ὧν προακηκοέναι βέλτιόν ἐσθ' 955 ὑμᾶς, ἓνα μὲν τὸ παράπαν μὴ γενέσθαι διαθήκην, ἀλλ' εἶναι τοῦτο πλάσμα καὶ σκευώρημα ὅλον, ἕτερον δ' ἕνεκα τούτου πάντα ταῦτα συγχωρεῖν τὸν πρὸ τοῦ χρόνον καὶ οὐχὶ δικάζεσθαι, ὅτι μίσθωσιν ἤθελεν αὐτῷ φέρειν Φορμίων πολλήν καὶ ὑπισχνεῖτο οἴσειν ἐπεὶ δ' οὐ ποιεῖ ταῦτα, τηνικαῦτα, φῆσι, δικάζομαι.

τὸ τέταρτον μέρος.] The property is divided into four parts, one of which is taken by Apollodorus, another by his brother Pasicles. The other two go to the children of the second marriage, who must have been two in number.

ἀφεῖναι τῶν ἐγκλ.] § 3 ἀφείας, § 25 ἀφείας κ. ἀπαλλάξας, n. §§ 83—85. Anticipation of plaintiff's arguments, continued. He will impudently assert (1) that his father made no will and that the document produced was a forgery; and (2) that the reason why he forbore to press the charge at the proper time was that defendant promised to pay him a high rent.

In answer to (1), if there was no will, how came the plaintiff to succeed to the lodging-house which he holds in accordance with the terms of the will? In answer to (2), it is in evidence that after the termination of the defendant's lease, the plaintiff let the business to others; had the plaintiff any lawful claim on the defendant, he ought certainly to have brought it forward at the time of the subsequent

lease.

83. εἰπεῖν...λέγειν.] Almost identical in meaning and used, as often, for variety of expression. Phil. II. § 11, ταῦθ' ἃ πάντες μὲν δεῖ γλίσχονται λέγειν, ἄξιόν δ' οὐδεὶς εἰπεῖν δεδύνηται. Isocr. ad Dem. § 41 and Paneg. § 11 n.

πλάσμα κ. σκευώρημα ὅλον.] 'A figment and a forgery from beginning to end.' Hesych. σκευώρημα· πλάσμα, κακούργια, κατασκευή, τὸ γινόμενον κατασκευάσμα εἰς βλάβην, and id. σκευωρία· κατασκευή.

In Or. 45 § 42 Apollodorus himself, in criticising the διαθήκη, concludes with the words πάντα πεπλασμένα καὶ κατεσκευασμένα ἐλέγχεται. Cf. Or. 41 § 24 σκευώρημα.

τὸν πρὸ τοῦ χρόνον.] 'During the former period.' πρὸ τοῦ sometimes spelt as one word προτοῦ. οὐχὶ δικάζεσθαι.] See Shilleto on Thuc. I. p. 153.

μίσθωσιν φέρειν.] We have frequently had μίσθωσιν in the sense of 'lease'; we here find it used like μίσθωμα for 'rent.' Or. 28 § 12 ἀποδέδωκε τὴν μίσθωσιν followed by λαβὼν τὴν πρόσοδον.



- 34 ὅτι δὲ ταὐτ' ἀμφοτέρ', εἰς λέγει, ψεύσεται καὶ τοῖς ὑφ' αὐτοῦ πεπραγμένοις ἐναντία ἐρεῖ, σκοπεῖτε ἐκ τῶνδ' ὅταν μὲν τοίνυν τὴν διαθήκην ἀρνήται, ἐκ τίνος τρόπου πρεσβεία λαβὼν τὴν συνοικίαν κατὰ τὴν διαθήκην ἔχει, τοῦτ' ἐρωτᾷτ'<sup>b</sup> αὐτόν. οὐ γὰρ ἐκείνῳ γ' ἐρεῖ, ὥς ὅσα μὲν πλεονεκτεῖν τόνδ' ἔγραψεν ὁ πατήρ, κύριά
- 35 ἐστὶ τῆς διαθήκης, τὰ δ' ἄλλα ἄκυρα. ὅταν δ' ὑπὸ τῶν τοῦδε ὑποσχέσεων ὑπάγεσθαι φῇ, μέμνησθ' ὅτι μάρτυρας ὑμῖν παρεσχήμεθα, οἱ χρόνον πολλὸν τοῦδ' ἀπηλλαγμένου μισθῶται τούτοις ἐγγίνοντο τῆς τραπέζης καὶ τοῦ ἀσπιδοπηγείου. καίτοι τόθ', ὀπηνίκα ἐμίσθωσεν ἐκείνοις, τῷδ' ἐγκαλεῖν παραχρήμα ἐχρήν, εἴπερ ἀληθὴ ἦν<sup>c</sup> ὑπὲρ ὧν τίτ' ἀφείς νῦν τούτῳ δικάζεται. ὥς

<sup>b</sup> ἐρωτᾷτε Z.

<sup>c</sup> ἦν Z.

84. πρεσβεία.] By right of primogeniture.

τὴν συνοικίαν.] "It should be observed that the Attic language distinguishes between dwelling-houses (*oikiai*) and lodging-houses (*synoikiai*); accidentally indeed a dwelling-house might be let out for lodgings, and a lodging-house have been inhabited by the proprietor himself" (Boeckh, *Publ. Econ.* i. 90). Apoll. may have already had a household of his own and his father may therefore have assigned him a *synoikia*. (A. Schaefer *Dem. u. s. Zeit.* iii. 2. 188.) Cf. § 6 ἐπὶ *synoikiis*, n.

85. ὑποσχέσεων.] He will tell you, perhaps, that Phormio promised to pay a good rent (*ὀπισχέειν* § 83), and so for a long time he withheld further action.

χρόνον πολλόν.] 'For a long time' (ten years as appears by § 87), acc. of duration of time, to be taken with *μισθῶται ἐγγίνοντο*. Kennedy seems to be

mistaken in taking it with τοῦδ' ἀπηλλαγμένου and translating 'who, long after the defendant's retirement, took a lease.' On the contrary, the new lease must have been granted *very shortly after* the defendant's connexion with the business ended, as eighteen years elapsed from the division of the property to the date of the speech, and the first eight belong to Phormio's lease and the last ten to the later lease of Xenon, &c. (cf. §§ 87, 19, 12). The general sense is this:

We have proved that, after Phormio had given up the bank, others became and long remained lessees (§ 13) of it. Apollodorus ought, the moment they took it, to have looked after his dues, and seen that all his money was in the business. But he made no claim at all, nay even thanked Phormio for his good services in the management.

τοῖνυν<sup>a</sup> ἀληθῆ λέγω, καὶ πρεσβεΐά τε τὴν συνοικίαν  
ἔλαβε κατὰ τὴν διαθήκην καὶ τῷδε οὐχ ὕπως ἐγκαλεῖν  
ἔμετο δεῖν, ἀλλ' ἐπὶναι, λαβὲ τὴν μαρτυρίαν.

## ΜΑΡΤΥΡΙΑ.

- 36 "Ἴνα τοῖνυν εἰδῆτε, ὦ ἄνδρες Ἀθηναῖοι, ὅσα χρήματ'  
ἔχων ἐκ τῶν μισθώσεων καὶ ἐκ τῶν χρεῶν ὥς ἀπορῶν  
καὶ πάντα ἀπολωλεκὸς ὀδυρεῖται<sup>o</sup>, βραχέα ἡμῶν  
ἀκούσατε. οὗτος γὰρ ἐκ μὲν τῶν χρεῶν ὁμοῦ τάλαντ'<sup>956</sup>  
εἴκοσιν εἰσπέπρακται ἐκ τῶν γραμμάτων ὧν ὁ πατὴρ  
κατέλειπεν<sup>f</sup>, καὶ τούτων ἔχει πλέον<sup>g</sup> ἢ τὰ ἡμίση<sup>h</sup> πολλῶν  
37 γὰρ τὰ μέρη τὸν ἀδελφὸν ἀπεστέρει<sup>ss</sup>. ἐκ δὲ τῶν μισθώ-  
σεων, ὅκτω μὲν ἐτῶν ἡ Φορμίων εἶχε τὴν τράπεζαν,  
ὀγδοήκοντα μνᾶς τοῦ ἐνιαυτοῦ ἐκάστου, τὸ ἡμισυ τῆς  
ὅλης μισθώσεως· καὶ ταῦτ'<sup>h</sup> ἐστὶ δέκα τάλαντα καὶ τετ-  
ταράκοντα μναί· δέκα δ' ἐτῶν μετὰ ταῦτα, ὧν ἐμισθώ-  
σαν ὕστερον Ξένωνι καὶ Εὐφραίῳ καὶ Εὐφρόνι καὶ

<sup>a</sup> ταῦν<sup>z</sup>.<sup>o</sup> Bekk. ὀδύρεται Z cum FΣΦ.<sup>f</sup> Bekk. κατέλειπεν Z cum Σ.<sup>g</sup> πλέον Bekk. πλείον Z cum Σ. πλείω FΦ.<sup>ss</sup> Z et Dindf. cum Σ. ἀποστέρεῖ Bekk.<sup>h</sup> ταῦτα Z.

§§ 36—42. *The plaintiff will complain that he is utterly destitute and ruined. You must know then that, from the debts due to his father and the rents due to himself, he has received more than forty talents (about £9750).*

*Oh, but he has lavishly spent his money in the public service on trierarchal and choragic charges! On the contrary, all that he gave on his own account after the property was divided, barely amounted to twenty minae (£81). Even assuming his boasted liberality to be true, that is no reason for giving the defendant's property to the plaintiff, and thus reducing the former to poverty, while we see the latter squandering his money in his*

*customary manner.*

36. μισθώσεων.] 'Rents.' Cf. § 33 μισθῶσιν φέρειν, π. εἰσπέπρακται ἐκ τ. γραμ. § 21 ἐκ ποίων γραμμάτων, π.

ἀπεστέρει.] 'Was continually defrauding' his brother of his shares in many of the debts.

37. ὀγδοήκοντα μνᾶς.] Eighty minae is half the annual rent, the share of Apollodorus. In Or. 45 § 32 the whole rent is stated at 2 talents and 40<sup>m</sup> (i.e. at 160<sup>m</sup>) per annum. Cf. § 51 inf.

Εὐφραίῳ.] In Or. 49 πρὸς Τιμόθεον § 44 Phormio and Euphraeus are mentioned by Apollodorus, as having paid from Pasion's bank certain sums of money to persons named by Timotheus. Like Phormio, Eu-

- 38 Καλλιστράτῳ, τάλαντον τοῦ ἐνιαυτοῦ ἐκάστων. χωρὶς δὲ τούτων, ἐτῶν ἰσως εἴκοσι τῆς ἐξ ἀρχῆς νεμηθείσης οὐσίας, ἧς αὐτὸς ἐπεμελεῖτο, τὰς προσόδους, πλέον ἢ μῆν᾽ς τριάκοντα. ἐὰν δ' ἅπαντα συνθῇτε, ὅσα ἐνείματο, ὅσα εἰσεπράξατο, ὅσ' εἴληφε μίσθωσιν, πλέον ἢ τετταράκοντα τάλαντα εἴληφῶς φανήσεται, χωρὶς ὧν οὗτος εὖ πεποίηκε, καὶ τῶν μητρώων, καὶ ὧν ἀπὸ τῆς τραπέζης ἔχων οὐκ ἀποδίδωσι πένθ' ἡμιταλάντων
- 39 καὶ ἑξακοσίων δραχμῶν. ἀλλὰ νῆ Δία ταῦθ' ἡ πόλις εἴληφε, καὶ δεινὰ πέπονθας πολλὰ καταλελειουργη-

phraeus had risen from a subordinate position, to be one of the lessees of the bank. Cf. § 14 ἐλευθέρους ἀφείσαν, n.

38. ἐτῶν ἰσως εἴκοσι.] In § 19 the interval is more strictly stated at eighteen years.

τῆς ἐξ ἀρχῆς κ.τ.λ.] See § 11. Apollodorus had chosen the shield-manufactory; and the rents of it, under his own management, are now reckoned as part of his general income.

ἐὰν ἅπαντα συνθῇτε κ.τ.λ.] 'If you add up all the items.'

ἐνείματο more than 30<sup>m</sup>  
for eighteen years =  
more than 540<sup>m</sup> =  $\frac{1}{9}$  m.  
more than 9

εἰσεπράξατο 20<sup>a</sup>—ἔχει  
πλέον ἢ τὰ ἡμίση or  
more than 10<sup>a</sup>, say 11

εἴληφε μίσθωσιν from  
Phormio 80<sup>m</sup> for eight  
years = 10 40

from  
Xenon, &c., 1<sup>a</sup> for ten  
years = 10

Total more than 40<sup>a</sup> 40<sup>m</sup>

or πλέον ἢ τετταράκοντα τάλ.

ὧν οὗτος εὖ πεπ.] Referring probably to Phormio's free gift of 3000 dr. (§ 15).—τῶν μητρώ-

ων, a fourth part of his mother's property (§ 32). Otherwise we must understand it of an occasional bonus for the good-will of the bank: and to this ἐπὶ τῇσι might refer in § 35.

πένθ' ἡμιταλάντων.] Two and a-half talents, not four and a-half as Jerome Wolf and Kennedy translate it (which would require πέμπτου ἡμιταλάντου). The plaintiff's unpaid debt of 156<sup>m</sup> is with a bitter emphasis mentioned last in the list of his resources.

39. ἀλλὰ νῆ Δία.] Introducing a supposed rejoinder on the opposite side. 'Oh! but he will say, All this wealth has been received, in fact, not by him, but by the city.' Cf. Or. 54 § 34 n.

καταλελειουργηκώς.] You make out that you are cruelly wronged, through your having (or, after having) 'lavishly spent,' (as it were) 'liturgised away,' your money in the public service. For this use of κατα- cf. Isaeus Or. 5 § 43 οὐτε γὰρ εἰς τὴν πόλιν οὐτε εἰς τοὺς φίλους φανερός εἰ δαπανηθεὶς οὐδέν. ἀλλὰ μὴν οὐδὲ καθιπποτρόφην, οὐ γὰρ πώποτε ἐκτίσω ἱππον πλείονος ἀξίον ἢ τριῶν μῶν' οὐτε κατεξέ-

κώς. ἀλλ' ἂ μὲν ἐκ κοινῶν ἐλειτούργεις τῶν χρημάτων, σὺ καὶ ὁ ἀδελφὸς ἀνηλώσατε· ἂ δ' ὕστερον, οὐκ ἔστιν ἄξια μὴ ὅτι δυοῖν ταλάντοιιν προσόδου, ἀλλ' οὐδ' εἴκοσι μνῶν. μηδὲν οὖν τὴν πόλιν αἰτιῶ, μηδ' ἂ σὺ τῶν ὄντων αἰσχροῦς καὶ κακῶς ἀνήλωκας, ὥς ἡ πόλις  
 40 εἴληφε, λέγε. ἵνα δ' εἰδῆτε, ὦ ἄνδρες Ἀθηναῖοι, τό τε πλήθος τῶν χρημάτων ὧν εἴληφε, καὶ τὰς λειτουργίας ἃς λελειτούργηκεν, ἀναγνώσεται ὑμῖν καθ' ἐν ἑκαστον. λαβέ μοι τὸ βιβλίον ταυτὶ καὶ τὴν πρόκλησιν ταυτηνὴ\* 957 καὶ τὰς μαρτυρίας ταυτασί.

## BIBAION. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΤΡΙΑΙ.

41 Τοσαῦτα μὲν τοίνυν χρήματα εἴληφός καὶ χρέα πολλῶν ταλάντων ἔχων, ὧν τὰ μὲν παρ' ἐκόντων, τὰ δ' ἐκ τῶν δικῶν εἰσπράττει, ἂ τῆς μισθώσεως ἔξω τῆς τραπέζης καὶ τῆς ἄλλης οὐσίας, ἣν κατέλιπε Πασίων, ὠφείλετο ἐκείνῳ καὶ νῦν παρειλήφασιν οὗτοι, καὶ τοσαῦτ' ἀνηλωκὼς ὅς' ὑμεῖς ἠκούσατε, οὐδὲ πολλοστὸν μέρος τῶν προσόδων, μὴ ὅτι τῶν ἀρχαίων, εἰς τὰς λει-

<sup>1</sup> Bekk. om. Z cum Σ.

<sup>2</sup> Bekk. ταύτην Z cum Σ.

γοτρόφηκας, ἐπεὶ οὐδὲ ζεῦγος ἐκ-  
 τῆσω ὀρίκον οὐδεπώποτε ἐπὶ το-  
 σοῦτοι ἀγροῖς καὶ κτήμασιν.

[So καταχαρίζεσθαι, 'to give away in presents,' καταχρήσθαι, καταπροδοῦναι, καταδροδοκεῖν, καταπολιτεύεσθαι, καθυποκρίνεσθαι τῶνα, De Fals. Leg. §§ 862, 389. P.]

ἐκ κοινῶν κ.τ.λ.] i.e. You cannot take the sole credit for the sums spent before the property was divided. Half of that expenditure came out of your brother's money. (§ 8.)

ἐλειτούργεις.] See *Dict. Antiq.*; also F. A. Wolf's preface to *Dem. Leptines* (Beatson's trans. p. 40 sqq.) and Boeckh's *Public Econ.*, Book 4 §§ 10—15. Among the λειτουργίαι were the *τριηραρχία*

and *χορηγία* referred to in § 41 fin.

μὴ ὅτι...ἀλλ' οὐδ'.] See note on Or. 84 § 14, and cf. 27 § 7; 43 § 9; 56 § 39. (Madvig's *Gk. Syntax*, § 212, and Kühner's *Ausf. Gram. der Griechischen Sprache*, II. § 525, 4.)

δυοῖν.] i.e. more than 40 for about 20 years, § 38.

μηδὲν—αἰτιῶ.] 'Don't accuse the state then,' 'don't be charging the state with being the cause and object of your lavish expenditure.'

41. εἰ τῆς μισθ. κ.τ.λ.] The order is εἰ (ἔξω τῆς μισθώσεως τῆς τραπέζης κ.τ.λ.) ὠφείλετο τῷ Πασίῳ καὶ εἰ οὗτοι (sc. Apoll. and Pasioles) παρειλήφασιν.

οὐδὲ πολλοστὸν, κ.τ.λ.] 'The

τουργίας, ὅμως ἀλαζονεύσεται καὶ τριηραρχίας ἐρεῖ  
 42 καὶ χορηγίας. ἐγὼ δ', ὡς μὲν οὐκ ἀληθῆ ταῦτ' ἐρεῖ,  
 ἐπέδειξα, οἴμαι<sup>1</sup> μέντοι, κὰν εἰ ταῦτα πάντ' ἀληθῆ  
 λέγοι, κάλλιον εἶναι καὶ δικαιότερον τόνδε ἀπὸ τῶν  
 αὐτοῦ λειτουργεῖν ὑμῖν ἢ τούτῳ δόντας τὰ τούτου,  
 μικρὰ τῶν πάντων αὐτοὺς μετασχόντας, τόνδε μὲν ἐν  
 ταῖς ἐσχάταις ἐνδείαις ὀρᾶν, τούτον δ' ὑβρίζοντα καὶ  
 43 εἰς ἅπερ εἴωθεν ἀναλίσκοντα. ἀλλὰ μὴν περὶ γε τῆς  
 εὐπορίας, ὡς ἐκ τῶν τοῦ πατρὸς τοῦ σοῦ κέκτῃται, καὶ

<sup>1</sup> οἴομαι Z (cf. § 18).

smallest fraction of his income, not to say (I needn't say) of his capital.' This explains τσαυτ', tantilla.

ἀλαζονεύσεται ..... τριηραρχίας ἐρεῖ.] 'Will in bragging terms talk of his trierarchal (and choragic) expenses.' Of such ἀλαζονεία there are instances again and again in Dem. and the other orators, e.g. Midias p. 566 seqq. In Or. 45 § 85, Apollodorus appeals to his father's trierarchies, and in § 86 taunts one of Phormio's witnesses, Stephanus, with having never done the smallest service to the state by τριηραρχία or χορηγία or any other λειτουργία whatever.

The plaintiff had really some good reason for being proud of his trierarchal services. Among the orations of Dem. a speech has come down to us (Or. 50, πρὸς Πολυκλέα) in which Apollodorus states that being appointed trierarch (in B.C. 362) he gave his vessel a splendid equipment and liberal wages to the crew; and for more than seventeen months traversed the Hellespont and other waters, often encountering perilous storms, in the public service.

42. τόνδε ἀπὸ τῶν αὐτοῦ.] 'That he should continue to serve you from his own resources,' &c. Pointing to Phormio, who is also referred to in τόνδε μὲν two lines further on. —τούτῳ δόντας τὰ τούτου, i.e. handing over to the plaintiff (Ap.) the property of the defendant (Phorm.). For a similarly ambiguous use of demonstrative pronouns, see above, § 12 n.

τόνδε μὲν...τούτον δ'.] Defendant and plaintiff respectively.

εἰς ἅπερ εἴωθεν ἀναλ.] A deliberately vague innuendo, which is partly justified by the details of a subsequent section (§ 45). In Or. 45 § 77, Apollodorus says with some self-complacency: τῷ μέτριοις κατὰ πάσας τὰς εἰς ἑμμαντὸν δαπάνας εἶναι πολὺ τούτου καὶ τοιούτων ἑτέρων εὐτακτότερον ζῆν ἂν φανεῖν.

§§ 43—48. As to the defendant's wealth, and his having got it from your father's estate, you should be the last man in all the world to use such language. The defendant, like your own father, made his money by faithful and honest service, by personal integrity of

ὧν ἐρωτήσῃν ἔφησθα, πόθεν τὰ ὄντα κέκτηται Φορ-  
μίων, μὲν τῶν ὄντων ἀνθρώπων σοὶ τοῦτον οὐκ  
ἔνεστ' <sup>m</sup> εἰπεῖν τὸν λόγον. οὐδὲ γὰρ Πασίων ὁ σὸς  
πατὴρ ἐκτήσαθ' εὐρῶν οὐδὲ τοῦ πατρὸς αὐτῷ <sup>n</sup> παρα-  
δόντος, ἀλλὰ παρὰ τοῖς αὐτοῦ κυρίοις Ἀντισθένης καὶ  
'Αρχεστράτῳ τραπεζίτεῦσι πείραν δούς ὅτι χρηστός  
44 ἐστὶ καὶ δίκαιος, ἐπιστεύθη. ἔστι δ' ἐν ἐμπορίῳ καὶ

<sup>m</sup> Ζ. ἐνεστω Ζ.

<sup>n</sup> αὐτῷ Ζ.

character, and by that good credit and fair fame which in the commercial world is the best kind of capital.

Again, if you claim the defendant's property on the ground that he was once your father's slave, then Antimachus, a surviving son of your father's former master, might go still further, and claim your own estate and the defendant's too; yet, though now in a humble position far below his merits and his proper rank, he does not go to law with them, because they have money to spend while he is in destitution.

Instead of making the most of the good fortune by which your father and the defendant alike received the rights of freedom and citizenship, you are heartless enough to cast contumely on yourself and your parents, and on Athens too, for granting her privileges to people like yourself; you are senseless enough to forget that, by insisting that the defendant's former servitude should not be brought up against him, we are really speaking on your side and defending your own position. The rule, that you lay down to the detriment of the defendant, can as easily be advanced against yourself by the house to which your father was once a slave.

P. S. D. II,

43. πόθεν—κέκτηται Φ.] In Or. 45 § 80, Apollodorus unfairly says of Phormio, εἰ ἢ δίκαιος, πένης ἂν ἦν τὰ τοῦ δεσπότητος διοικήσας. ... Had I dragged you off to prison as a thief caught in the act, with your present property clapped upon your back, ... and had I, supposing you denied the theft, demanded the name of the person from whom you received it, to whose name would you have appealed? οὐτε γὰρ σοὶ πατὴρ παρέδωκεν, οὐδ' εὐρες.

ἐκτήσαθ' εὐρῶν.] 'Got it by good luck' as a 'godsend,' a 'windfall,' a εὖρημα or Ἑρμαῖον. Passages like the present and the parallel from Or. 45 § 81 (given above) should be quoted in Liddell and Scott (s. v. εὐρίσκω, 4).

'Αρχεστράτῳ.] Isocr. Trapez. § 43, Πασίων δὲ Ἀρχεστράτον μοι ἀπὸ τῆς τραπέζης ἐπὶ τὰ ταλάντων ἐγγυητὴν παρέσχεν. (A. Schaefer Dem. u. s. Zeit. iii. 2. 131.)

δίκαιος.] 'Honest.'

ἐπιστεύθη.] 'Won his master's confidence,' 'was trusted.' So in Or. 50 § 56, Apollodorus describes the wide extent of his father's connexion and good credit (ἐπεφενώσθαι πολλοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλλάδι).

44. ἐν ἐμπορίῳ καὶ χρήμασιν ἐργαζομένοις.] Kennedy: 'In

3

χρήμασιν ἐργαζομένοις ἀνθρώποις φιλεργὸν δόξαι καὶ χρηστὸν εἶναι τὸν αὐτὸν θαυμαστὸν ἡλίκων. οὐτ' οὖν ἐκείνῳ τοῦθ' οἱ κύριοι παρέδωκαν, ἀλλ' αὐτὸς ἔφν χρηστὸς, οὔτε τῷδε ὁ σὸς πατήρ· σὲ γὰρ ἂν πρότερον 958 τοῦδε χρηστὸν ἐποίησεν, εἰ ἦν ἐπ' ἐκείνῳ. εἰ δὲ τοῦτο ἀγνοεῖς, ὅτι πίστις ἀφορμὴ πασῶν ἐστὶ μεγίστη πρὸς χρηματισμὸν, πᾶν ἂν ἀγνοήσεις. χωρὶς δὲ τούτων

the commercial world and the money-market it is thought a wonderful thing, when the same person shows himself to be both honest and diligent.' The order is: θαυμαστὸν ἡλίκων ἐστὶν ἀνθρώποις ἐργαζομένοις ἐν ἐμπορίῳ καὶ (ἐργαζομένοις) χρήμασι, τὸν αὐτὸν δόξαι φιλεργὸν καὶ εἶναι χρηστὸν, i. e. a reputation for business-like habits and a really honest character, when combined in the same person, have a striking influence in the money-market and the commercial world.

ἐν should be taken with ἐμπορίῳ only, the construction being (as G. H. Schaefer notices) ἐργάζεσθαι ἐν ἐμπορίῳ with the preposition, and ἐργάζεσθαι χρήμασιν without. Cf. Or. 57 § 31, ἐν τῇ ἀγορᾷ ἐργάζεσθαι with Or. 33 § 4, where τῆς ἐργασίας τῆς κατὰ θάλατταν is followed by τούτοις (so. τοῖς χρήμασι) πειρώμαι ναυτικοῖς ἐργάζεσθαι, [ἐν ἐμπορίῳ may also be taken by itself, 'in trade it is thought a great matter,' &c. P.]

δόξαι is slightly contrasted with εἶναι, the outward reputation for business habits with the inward and inherent honesty (cf. ἔφν χρηστὸς below). G. H. Schaefer says, 'dativus regitur a verbo δόξαι. Deinde τὸ ἐξῆς est: τὸν αὐτὸν δόξαι εἶναι φιλεργὸν καὶ

χρηστὸν;' but the position of δόξαι and εἶναι makes against this construction. Cf. Aesch. Theb. 592, οὐ γὰρ δοκέειν δίκαιος ἀλλ' εἶναι θέλει.

It is the combination of δόξαι φιλεργὸν and εἶναι χρηστὸν that is insisted on, because a forger, for instance, might have all the air of a painstaking man of business without being really χρηστὸς; and *vice versa*, a man of unblemished morale might never get a name for financial skill, or even ordinary business-like habits.

οὔτε—οὔτε.] 'As then his masters did not bequeath to Pasion this virtue, but his honesty was natural, so neither did Pasion bequeath it to Phormio; for he would have made you honest rather than him, had it been in his power.' The philosophic questions, εἰ διδασκὸς ἀρετῇ, and τὸ φύσει ἅπαν κράτιστον, are perhaps held in view, though it is seldom that Demosthenes enters on the region of philosophy. P.]

πίστις ἀφορμή.] 'If you don't know that for money-making the best capital of all is good credit; then, what do you know?' ἀφορμή.] Cf. § 12 n.

χωρὶς...πατρι.] An accidental iambic line. See Isocr. Paneg. § 170 n.—On ὑμετέροις, cf. § 80 fin.

πολλὰ καὶ τῷ σῷ πατρὶ καὶ σοὶ καὶ ὅλως τοῖς ὑμετέ-  
ροις πράγμασι Φορμίων γέγονε χρήσιμος. ἀλλ', οἶμαι,  
τῆς σῆς ἀπληστίας καὶ τοῦ σοῦ τρόπου τίς ἂν δύναιτο  
45 ἐφικέσθαι; καὶ δῆτα θαυμάζω πῶς οὐ λογίζει<sup>ο</sup> πρὸς  
σεαυτὸν<sup>ο</sup> ὅτι ἔστιν Ἀρχεστράτῳ τῷ ποτὲ τὸν σὸν  
πατέρα κτησαμένῳ υἱὸς ἐνθάδε, Ἀντίμαχος, πράττων  
οὐ κατ' ἀξίαν, ὃς οὐ δικάζεται σοι οὐδὲ δεινὰ φησι  
πάσχειν, εἰ σὺ μὲν χλανίδα φορεῖς, καὶ τὴν μὲν λέλ-  
υσαι, τὴν δ' ἐκδέδωκας ἑταῖραν, καὶ ταῦτα γυναικ' ἔχων  
ποιεῖς, καὶ τρεῖς παῖδας ἀκολουθοῦς περιάγεις, καὶ ζῆς

<sup>ο</sup> λογίζει Ζ.

<sup>ρ</sup> Bekk. ἐαυτὸν Ζ cum Σ (cf. Isocr. ad Dem. § 14 n.).

ὅλως.] 'Generally.'

ἀλλ', οἶμαι... τίς ἂν δύναιτο;]  
Questions of this kind are often  
best rendered by a negative  
sentence. 'But no one, I feel,  
can come up to your covetous-  
ness and your general charac-  
ter.' 'Your covetousness, &c.  
no language, I take it, can ade-  
quately describe.' [For the  
genitive see on Aesch. Cho.  
1022. P.]

45. χλανίδα.] 'A mantle,' a light  
upper garment of wool. Aeschin.  
Timarch. § 181, τὰ κομψὰ ταῦτα  
χλασικία..... καὶ τοὺς μαλακοὺς  
χιτωνίσκους. Dem. Or. 21 § 133  
(of Meidias) χλαμίδας καὶ κυμβία  
καὶ κάδους ἔχων. Pollux: χλανίς  
δὲ ἱμάτιον λεπτόν.

λέλυσαι.] 'Redeemed' from  
her owner. Herod. ii. 185 (of  
Rhodōpis) ἀπικομένη κατ' ἐργα-  
σίαν ἐλύθη χρημάτων μεγάλων  
ὅπ' ἀνδρὸς Μυτιληναίου. Ar. Vesp.  
1353, ἐγὼ σε .. λυσάμενος ἔξω  
παλαστήν. Dem. Or. 48 § 53  
ἑταῖραν λυσάμενος ἔνδον ἔχει. [It  
may be remarked that Demos-  
thenes is particularly fond of  
using perfect passives in the  
medial sense. P.]

ἐκδέδωκας.] Given away in

marriage. Or. 59, κατὰ Νεάρας,  
§ 78 (ἡ ἄνθρωπος) ἐξεδόθη τῷ  
Διονύσῳ γυνή, and Or. 27 § 69  
θυγατέρας παρὰ σφῶν αὐτῶν ἐκ-  
δότας.

καὶ ταῦτα γυναικ' ἔχων.....]  
'And that too, when you have  
a wife.' In his speech πρὸς  
Πολυκλέα, Apollodorus, contrary  
to what might be expected  
from the present passage, speaks  
in affectionate terms of his  
wife. Or. 50 § 61, ἡ γυνή ἦν ἐγὼ  
περὶ πλείστου ποιούμεναι ἀσθενῶς  
διέκειτο πολλὸν χρόνον.

παῖδας ἀκολουθοῦς.] Or. 21  
(Meidias) § 158 τρεῖς ἀκολουθοῦς  
ἢ τέτταρας αὐτὸς ἄγων διὰ τῆς  
ἀγορᾶς σοβεί. Xen. Mem. i. 7.  
2, σκευή τε καλὰ κέκτηνται καὶ  
ἀκολουθοῦς πολλοὺς περιάγονται.  
(Becker, Charicles iii. 21, ed. 2  
= p. 362 of Eng. ed.)

περιάγεις.] Cobet, after quot-  
ing the above passage of Xeno-  
phon (to alter σκευή καλὰ into  
σκευὴν καλῆν), takes the hint  
suggested by the last word  
περιάγονται, to propose the mid-  
dle for the active in the present  
passage. 'Reponendum est ne-  
cessario περιάγει. Discrimen  
inter περιάγω et περιάγομαι tam



ἀσελγῶς<sup>α</sup> ὥστε καὶ τοὺς ἀπαντῶντας αἰσθάνεσθαι,  
 46 αὐτὸς δ' ἐκείνος πολλῶν ἐνδεής ἐστιν. οὐδὲ τὸν Φορ-  
 μίων' ἐκείνος οὐχ ὄρᾳ. καίτοι εἰ κατὰ τοῦτ' οἶει σοι  
 προσήκειν τῶν τούτου, ὅτι τοῦ πατρός ποτ' ἐγένετο  
 τοῦ σοῦ, ἐκείνῳ προσήκει μᾶλλον ἢ σοί· ὁ γὰρ αὖ σὸς  
 πατὴρ ἐκείνων ἐγένετο, ὥστε καὶ σὺ καὶ οὗτος ἐκείνου  
 γίγνεσθε ἐκ τούτου τοῦ λόγου. σὺ δ' εἰς τοῦθ' ἦκεις  
 ἀγνωμοσύνης ὥσθ' ἂ προσήκει σοι τοὺς λέγοντας  
 ἐχθροὺς νομίζειν, ταῦτ' αὐτὸς ποιεῖς ἀνάγκην εἶναι  
 47 λέγειν, καὶ ὑβρίζεις μὲν σαυτὸν καὶ τοὺς γονέας τεθ-  
 νεῶντας, προπηλακίζεις δὲ τὴν πόλιν, καὶ ἂ διὰ<sup>αα</sup> τῆς  
 τούτων φιλανθρωπίας ἀπολαύσας εὔρετο ὁ σὸς πατὴρ  
 καὶ μετὰ ταῦτα Φορμίων οὐτοσί, ταῦτα ἀντὶ τοῦ κο-  
 σμεῖν καὶ περιστέλλειν, ἵνα καὶ τοῖς δοῦσιν ὡς εὐσχη- 959  
 μονέστατα ἐφαίνετο καὶ τοῖς λαβοῦσιν ὑμῖν, ἄγεις εἰς  
 μέσον, δεικνύεις, ἐλέγχεις, μόνον οὐκ ὀνειδίζεις οἶον

<sup>α</sup> Σ. + οὕτως Ζ.

<sup>αα</sup> Ζ et Dindf. cum Σ. διὰ om. Bekk.

perspicuum est quam perpetu-  
 um. Si quem circumductamus  
 spectaturum aliquid, aut omnino  
 si cui damus operam ut circum-  
 iens inspiciat aliquid aut  
 agat, eum περιάγειν dicimur;  
 sin autem quis quaquā incedit  
 secum trahit aliquem, cuius  
 opera officioque utatur, eum  
 περιάγεσθαι dicitur, ut herus  
 pedissequos, aut tyrannus satel-  
 lites.' (Novae lectiones, p. 652.)

46. οὐδὲ τὸν Φορμίωνα.] 'Nor is  
 Phormio's position unknown  
 to him.' Kennedy. For the  
 double negation, see on § 22.  
 Though Phormio was once the  
 slave of one who was himself  
 a slave of the father of Antima-  
 chus, the latter, who is well  
 aware how Phormio has risen,  
 does not grudge him his suc-  
 cess and does not hold himself  
 aggrieved by him.—ἐκείνῳ, to

Antimachus.

ἀγνωμοσύνης.] 'Heartlessness,'  
 'want of proper feeling,'  
 'churlishness.' [The polite  
 Greeks had many terms of this  
 kind, ἀγροικία, σκαϊότης, ἀμαθία,  
 ἀπαιδευσία, ἀπειροκαλία. P.]

47. κοσμεῖν καὶ περιστέλλειν.]  
 'Adorning and cherishing' the  
 right of citizenship. [A meta-  
 phor from putting on and grace-  
 fully adjusting clothes. Whence  
 he adds εὐσχημονέστατα. P.]

ἵνα—ἐφαίνετο.] Cf. ὅπως ἡλέγ-  
 χθη, § 20. Goodwin's *Moods*  
*and Tenses*, § 44. 3. Kühner,  
 § 553. 7.

ἀγεις εἰς μέσον κ.τ.λ.] 'You drag  
 it into public view, point (the  
 finger of scorn) at it, criticize  
 it; and all but taunt Athens  
 with naturalizing (admitting to  
 the freedom of the city) such a  
 character as yourself.'

48 ὄντα σε ἐποίησαντο Ἀθηναῖοι. εἰτ' εἰς τοῦθ' ἦκει  
 μανίας (τί γὰρ ἂν ἄλλο τις εἴποι;) ὥστ' οὐκ αἰσθάνει  
 ὅτι καὶ νῦν ἡμεῖς μὲν ἀξιούντες, ἐπειδήπερ ἀπηλλάγη  
 Φορμίῳ, μηδέν' ὑπόλογον εἶναι εἴ ποτε τοῦ σοῦ  
 πατρὸς ἐγένετο, ὑπὲρ σοῦ λέγομεν, σὺ δὲ μηδέποτε  
 ἐξ ἴσου σοι γενέσθαι τοῦτον ἀξίων κατὰ σαυτοῦ λέ-  
 γεις· ἃ γὰρ ἂν σὺ δίκαια σαυτῷ κατὰ τούτου τάξης,  
 ταῦτα<sup>α</sup> ταῦθ' ἤξει κατὰ σοῦ παρὰ τῶν τὸν σὸν πατέρα  
 ἐξ ἀρχῆς κτησαμένων. ἀλλὰ μὴν ὅτι κακείνος ἦν  
 τινῶν, εἰτ' ἀπηλλάγη τὸν αὐτὸν τρόπον ὅνπερ οὗτος  
 ἀφ' ὑμῶν, λαβέ μοι ταυτασὶ τὰς μαρτυρίας, ὡς ἐγέν-  
 ετο Πασίων Ἀρχεστράτου.

## ΜΑΡΤΥΡΙΑΙ.

49 Εἶτα τὸν σώσαντα μὲν ἐξ ἀρχῆς τὰ πράγματα καὶ  
 πολλὰ χρήσιμον αὐτὸν παρασχόντα τῷ πατρὶ τῷ τού-

<sup>α</sup> Σ. αἰσθάνη Ζ.

<sup>α</sup> Σ. τὰ αὐτὰ Ζ.

48. *eis tout' h'kei manias.*] Cf. § 46, *eis tout' h'kei agnomosynhs.* *Madvig Gk. Syntax*, § 50 ad fin. *μηδέν' ὑπόλογον εἶναι.*] Lit. 'Should not be taken into account against him,' 'should not detract from his credit.' A metaphor from book-keeping, appropriate in a speech on bank-ing-stock.

[Cf. ὁ παράλογος, ὁ κάρδιος, ὁ μετρίμελος, words formed from a primary use of the simple noun governed by the preposi-tion. Translate: 'And now we, in requiring that, as Phormio has left Pasion's service, it should not be remembered against him that he was once Pasion's prop-erty, are in fact speaking in your behalf; while you, in demand-ing that Phormio shall not be put on the same footing as yourself, are speaking against yourself.' P.]

§§ 49—53. *The defendant's management of the family prop-erty was the very saving of the business, and in this and many other respects he has been a great benefactor to the plaintiff's father and to the plaintiff himself; and yet the latter is now demanding a verdict, which, if granted, will turn the defendant out of house and home, a ruined bank-rupt, like those whom we remem-ber. The plaintiff's father, es-teeming the defendant more highly than his own son, wisely and prudently left him manager of his leases when he died, besides showing his esteem for him during his lifetime. And that esteem was well deserved, for while the other bankers, to whose losses allusion has just been made, did business on their own ac-count, and therefore had to pay no rent to another, and were never-*

του, τοσαῦτα δ' αὐτὸν τοῦτον ἀγαθὰ εἰργασμένον ὅς  
 ὑμεῖς ἀκηκόατε, τοῦτον οἶεται δεῖν ἐλὼν τηλικαύτην  
 δίκην ἀδίκως ἐκβαλεῖν<sup>1</sup>. οὐ γὰρ ἄλλο γ' ἔχοις<sup>2</sup> οὐδὲν  
 ἂν ποιῆσαι. εἰς μὲν γὰρ τὰ ὄντα εἰ βλέπεις ἀκριβῶς,  
 ταῦθ'<sup>3</sup> εὐρήσεις ὧν ἔστιν, ἐὰν<sup>4</sup>, ὃ μὴ γένοιτο, ἐξπατη-  
 50 θῶσιν οὗτοι. ὁρᾷς τὸν Ἀριστόλοχον<sup>5</sup> τὸν Χαριδήμον;  
 ποτ' εἶχεν ἀγρὸν, εἰτά γε νῦν πολλοί· πολλοὺς γὰρ

<sup>1</sup> ΣτΑ<sup>1</sup>. ἐκβάλλειν Ζ.<sup>2</sup> Bekk. ἔχοι Ζ cum Σ.<sup>3</sup> Bekk. αὐτὰ Ζ cum FΣΦΒ.<sup>4</sup> ΣτΑ<sup>1</sup>. δὲ Ζ.<sup>5</sup> Σ. Ἀρχιλόχον Ζ.

theless ruined; the defendant not only paid a rent for the bank but kept up the business for the family of the plaintiff, who, so far from being grateful, takes no account of all this, but even persecutes and calumniates him. Our friend, if for a moment we may call him so, little thinks that honesty is the best policy (as is proved by the defendant's prosperity). The plaintiff at any rate is a case in point; he has (if we are to believe him) lost all his money; had he been a man of sound sense he would not have thrown it away.

49. ἐκβαλεῖν.] In Or. 45 κατὰ Στεφάνου A § 70, Apollodorus taunts Stephanus (one of Phormio's witnesses in the present trial) with turning his own uncle out of his patrimony, for arrears of debt: τοκίζων...ἐξέβαλες ἐκ τῆς πατρῴας οὐσίας.

οὐ γὰρ ἄλλο γ'.] i.e. If heavy damages are granted the plaintiff, the penalty will prove none other than (will not fall short of) turning the defendant out of house and home. 'Examine the nature of his property closely and you will soon see whose it really is (cf. Teles quoted in § 11 n.) and into whose hands it will fall, if (which heaven forbid) the court is

misled into condemning him.' The property consists largely of deposits at the bank, invested in different speculations, and incapable of being realised at a moment's notice. If Phormio has to pay damages, there will at once be a run upon his bank; his customers, to secure their property before it is paid away in damages, will claim their deposits, and Phormio, like others before him, will be bankrupt.

ἔχοις οὐδὲν δ.] Notice the strong affinity or attraction that δ] has to the negative; which is the reason of the common hyperthesis οὐκ ἂν οἶμαι σε ποιεῖν, &c. Goodwin's *Moods and Tenses*, § 42. 2, n., and Short's *Order of Words in Attic Greek Prose*, p. xciv. (3) (b).

50. Ἀριστόλοχον.] In 45 § 64 Stephanus is described as cringing to Aristolochus the banker in his prosperity, and deserting his son when in great distress after Aristolochus was ruined and had lost all his property.

ποτ' εἶχεν ἀγρὸν κ.τ.λ.] 'He had a farm once,'—'he owned some land in his day; that land has passed to many owners now.' ποτὲ (olim) is seldom found in so emphatic a position. —πολλοί (sc. ἔχοντι τὸν ἀγρὸν).

ἐκεῖνος ὀφείλων αὐτὸν ἐκτίσατο. καὶ τὸν Σωσίνομον  
καὶ τὸν Τιμόδημον καὶ τοὺς ἄλλους τραπεζίτας, οἳ  
ἐπεὶ διαλύειν ἐδέχσαν οἷς ὀφείλων, ἐξέστησαν ἀπάν-  
των τῶν ὄντων. σὺ δ' οὐδὲν οἶμι δεῖν σκοπεῖν οὐδ' 960  
ὧν ὁ πατὴρ σοῦ πολλῶ βελτίων ὧν καὶ ἄμεινον σοῦ<sup>a</sup>  
51 φρονῶν πρὸς ἅπαντ' ἐβουλεύσατο· ὅς, ὦ Ζεῦ καὶ θεοί,  
τοσοῦτον τοῦτον ἡγήϊτο σοῦ πλείονος ἄξιον εἶναι καὶ  
σοὶ καὶ ἑαυτῷ<sup>b</sup> καὶ τοῖς ὑμετέροις πράγμασιν, ὥστε  
ἄνδρὸς ὄντος σοῦ τοῦτον, οὐ σὲ τῶν μισθώσεων κατέ-  
λιπεν ἐπίτροπον καὶ τὴν γυναῖκα ἔδωκε καὶ ζῶν αὐτὸν  
ἐτίμα,<sup>c</sup> δικαίως, ὦ ἄνδρες Ἀθηναῖοι· οἱ μὲν γὰρ ἄλλοι  
τραπεζῖται μίσθωσιν οὐ φέροντες, ἀλλ' αὐτοὶ ἑαυτοῖς<sup>d</sup>  
ἐργαζόμενοι πάντες ἀπώλουντο, οὗτος δὲ μίσθωσιν φέ-  
ρων δύο τάλαντα καὶ τετταράκοντα μνᾶς ὑμῖν ἔσωσε  
52 τὴν τράπεζαν. ὧν ἐκεῖνος μὲν χάριν εἶχε, σὺ δ' οὐδένα  
ποιεῖ λόγον, ἀλλ' ἐναντία τῇ διαθήκῃ καὶ ταῖς ἀπ' ἐκεί-  
νης ἀραῖς γραφαῖσιν ὑπὸ τοῦ σοῦ<sup>e</sup> πατρὸς ἐλαύνεις,

<sup>a</sup> add. ΣΔ<sup>1</sup>. om. Z.<sup>b</sup> Σ. αὐτῷ Z.<sup>c</sup> ἐτίμα. Z.<sup>d</sup> Σ. αὐτοῖς Z.<sup>e</sup> add. ΣΔ<sup>1</sup>. om. Z.

διαλύειν.] so. (τούτους) οἷς  
ὀφείλων 'to settle with, to satisfy,  
their creditors.' Cf. Or. 37 § 12 n.  
ἐξέστησαν.] 'Had to give up,'  
'were ousted from.' 45 § 64  
ἀπώλετο καὶ τῶν ὄντων ἐξέστη.  
Apatur. § 25, Pantaen. 87 § 49,  
Ar. Acharn. 615 (K. F. Her-  
mann Privatalt. § 71, 8). ἐκ-  
στήναι (like ἐκπεσεῖν) would  
answer as a passive to ἐκβαλεῖν.  
The regular word for becoming  
bankrupt is ἀνασκευδένεσθαι (con-  
trasted with κατασκευδένεσθαι to  
establish a bank); Dem. Apatur.  
83 § 9 τῆς τραπεζῆς ἀνασκευα-  
σθείσης. Or. 49 § 68 τοῖς ἀνε-  
σκευασμένοις τῶν τραπεζιτῶν. Cf.  
infra § 57, ἀνατρέψαι, n.

51. ἑαυτοῖς ἐργ. πάντες ἀπώ-  
λων.] This frequent failure of

bankers on their own account,  
if truly stated, seems remarkable.  
δύο τάλ. κ.τ.λ.] Cf. § 37.

52. ταῖς ἀραῖς.] Solemn im-  
precations on those who violated  
the conditions of the will.

ἐλαύνεις, συκοφαντεῖς, διώκεις.]  
'Harass, calumniate, prose-  
cute.' διώκεις comes rather  
feebly after the stronger word  
συκοφαντεῖς, and in spite of the  
authority of the Paris MS. there  
is much to be said for the  
old order retained by Bek-  
ker: ἐλαύνεις, διώκεις, συκοφαν-  
τεῖς. The latter is to some  
extent confirmed by the Rhe-  
torician Tiberius (περὶ σχημά-  
των, c. 81), who refers to this  
passage as an instance of a  
figure of speech described by

συκοφαντεῖς, διώκεις<sup>cc</sup>. ὦ βέλτιστε, εἰ οἷόν τε σέ τοῦτ' εἰπεῖν, οὐ παύσει<sup>c</sup>, καὶ γνώσει<sup>e</sup> τοῦθ', ὅτι πολλῶν χρημάτων τὸ χρηστὸν εἶναι λυσιτελέστερόν ἐστι; σοὶ γοῦν, εἴπερ ἀληθῆ λέγεις, χρήματα μὲν τοσαῦτ' εἰληφότι πάντ' ἀπόλωλεν, ὡς φῆς· εἰ δ' ἦσθα ἐπιεικῆς, οὐκ ἂν ποτε αὐτὰ ἀνῆλωσας.

- 53 Ἄλλ' ἔγωγε μὰ τὸν Δία καὶ θεοὺς πανταχῇ σκοπῶν οὐδὲν ὀρώ, διότι<sup>b</sup> ἂν σοὶ πεισθέντες τουδί καταψηφίσαιντο. τί γάρ; ὅτι πλησίον ὄντων τῶν ἀδικημάτων ἐγκαλεῖς; ἀλλ' ἔτεσι καὶ χρόνοις ὕστερον αἰτιᾶ<sup>d</sup>.

<sup>cc</sup> Z et Dindf. cum ΣτΑ<sup>1</sup>. διώκεις, συκοφαντεῖς Bekk.

<sup>c</sup> παύση Z.

<sup>e</sup> γνώση Z.

<sup>b</sup> Bekk. διὰ τί Z cum ΣτΑ<sup>1</sup>.

another Rhetorician (Alexander, περὶ σχημάτων, c. 10) as ἐπὶ πλείον ἐπὶ τοῦ αὐτοῦ νοήματος ἐπιμονὴ μετὰ αὐξήσεως. His words are: ἐπιμονὴ δέ ἐστιν θῶαν τις πλείω ῥήματα ὁρθὰ ἀλλήλοις ἐπιβάλλη, ὡς ἐν τῷ ὑπὲρ Φορμίωνος πρὸς τὸν Ἀπολλόδωρον, ἀγείς (sic), ἐλαύνεις, διώκεις, συκοφαντεῖς. δεινῶσι τὸ σχῆμα ἐχει.

οὐ παύσει κ.τ.λ.] 'Do stop, and make up your mind to this truth, that being honourable pays a man better than being very wealthy.'

πολλῶν χρημάτων τὸ χρηστὸν λυσι.] Honesty is the best policy. The collocation of the cognate words χρήματα and χρηστός may be only accidental.

σοὶ γοῦν.] 'In your case, at any rate; γοῦν is *exempli gratia*, in illustration of a general maxim.

§§ 53—57. But though (for sake of argument) the speaker has pointed out the results which would ensue, if the defendant were condemned, he protests that he can see no ground for such condemnation. Plaintiff brings forward his charge, ever so many

years after the alleged offence, and meanwhile has found time for incessant litigation, especially in public causes where his personal interests were but partially affected. While prosecuting so many others, how came he to let Phormio alone? The presumption is that the plaintiff was never really wronged by him, and that the claim now put in, so long after the event, is utterly false and groundless.

To meet these charges, it will be much to the purpose to produce evidence of the bad character of the plaintiff, and also of the integrity and kindly feeling, the generosity and the public services of the defendant.

53. ἔτεσι καὶ χρόνοις ὕστερον.] i. e. 'years and ages later,' 'ever so many years after,' 'years and years later.' The phrase is curious and is perhaps rightly suspected by Seager, who suggests the emendation ἔτεσι καὶ χρόνοις τοσούτοις ὕστερον (Classical Journal 1829, Vol. 30, No. 59, p. 109). It is defended by G. H. Schaefer who refers to Pausanias x. 17. 3, ἔτεσι δὲ ὕστερον μετὰ τοὺς Διφύας ἀφίκοντο.

ἀλλ' ὅτι τοῦτον ἀπράγμων ἦσθα τὸν χρόνον; ἀλλὰ τίς οὐκ οἶδεν ὅσα πράγματα πράττων οὐ πέπαυσαι, οὐ μόνον δίκας ἰδίας διώκων οὐκ ἐλάττους ταυτησὶ, ἀλλὰ δημοσίᾳ συκοφαντῶν καὶ κρίνων τινάς<sup>1</sup>; οὐχὶ Τιμομάχου κατηγορεῖς; οὐχὶ Καλλίππου τοῦ νῦν ὄντος ἐν

<sup>1</sup> τινὰς οὐ; Dobree.

We may compare Lysias 3 § 39 οἱ μὲν ἄλλοι... ὀργιζόμενοι παραχρῆμα τιμωρεῖσθαι ζητοῦσιν, οὗτος δὲ χρόνους ὕστερον. But the two phrases *ἔτεσσιν ὕστερον* and *χρόνους ὕστερον*, however defensible in themselves separately, do not apparently occur in combination elsewhere; and it may therefore be worth while to suggest either *ἀλλὰ τοσούτοις χρόνους ὕστερον*, or simply *ἀλλὰ χρόνους ὕστερον* just as in the passage of Lysias above quoted. In the latter case *ἔτεσι καὶ* may be a corruption of a marginal gloss *ἔτεσι* κ' i.e. 'twenty years,' a transcriber's note explaining χρόνους by referring to § 26 *παρεληλυθότων ἐτῶν πλέον ἢ εἰκοσι*, and § 38 *ἐτῶν ἴσως εἰκοσι*. (Mr Shilleto suggests as a parallel to *ἔτεσι καὶ χρόνους*, Cic. Verr. II. 3. 21 *tot annis atque adeo saeculis tot*.)

*ἀπράγμων*.] Often used of quiet and easy-going people who shrink from litigation. Or. 40 § 32 *ἀπράγμων καὶ οὐ φιλόδικος*. Cf. *ἀπραγμοσύνη* and its opposites, *πολυπράγμων*, — *πραγμοεῖν*, — *πραγμοσύνη*. So also, in the next line, *πράγματα πράττων*, as is clear from the rest of the sentence, refers to the plaintiff's incessant litigation. Or. 27 § 1 *οὐδὲν ἂν εἴη δικῶν οὐδὲ πραγμάτων*.

*κατηγορεῖς*.] Young students are apt to confound the imperfect *κατηγορεῖς* with the present *κατηγορεῖς*.

*κρίνων τινὰς*.] The force of the sentence is much improved by Dobree's almost certain emendation *κρίνων τινὰς οὐ*; οὐχὶ Τιμομάχου κατηγορεῖς; κ.τ.λ., where the loss of οὐ would be accounted for by οὐχὶ following immediately after. Or. 37 § 14 *πολλὰ δεηθέντος καὶ τί οὐ ποιήσαντος*; 47 § 43 *δεομένων ἀπάντων καὶ ἱκετευόντων καὶ τίνα οὐ προσπεμπόντων*;

*Τιμομάχου κ.τ.λ.*] All these prosecutions are almost certainly connected with the naval operations extending over the plaintiff's protracted trierarchy of seventeen months in the Thracian Waters (in B.C. 362—361). In his speech against Polycles (Or. 50) *Autocles, Meno*, and *Timomachus* are mentioned as successive commanders of the fleet (§§ 12—14 and Or. 23 § 104—5); and while he there speaks in general terms of the maladministration of all the commanders (§ 15 *τὰ τῶν στρατηγῶν ἀπιστία*), he uses the strongest language against *Timomachus*, mainly for his treasonable collusion with an exiled relative, *Callistratus*. (See next note.) *Timomachus* was condemned, and put to death (*Schol.* on Aeschin. 1 § 56).

*Καλλίππου τοῦ νῦν... ἐν Σικελίᾳ*.] The context shows that this Callippus (who must not be confounded with the plaintiff in the speech of Apollodorus πρὸς Καλλίππου Or. 52) can be

Σικελία; οὐ πάλιν Μένωνος; οὐκ Αὐτοκλέους; οὐ 961  
 54 Τιμοθέου; οὐκ ἄλλων πολλῶν; καίτοι πῶς ἔχει λόγον  
 σὲ Ἀπολλόδωρον ὄντα πρότερον τῶν κοινῶν, ὧν μέρος

none other than 'the son of Philon, of the deme Aexone,' who, at the request of Timomachus, conveyed Callistratus on board an Athenian trireme to Thasos from his place of exile in Macedonia, after Apollodorus had stoutly refused to allow his own vessel to be used for so unlawful a purpose (Or. 50 § 46—52). He may, with great probability, be identified with Plato's pupil of that name, with whom another of Plato's disciples, the well-known Dion of Syracuse, lived on friendly terms at Athens on his banishment from Sicily in B.C. 366. In August 357, Dion, with a small force, started from the island of Zacynthus, and during the absence of Dionysius the younger, made a triumphal entry into Syracuse, attended by his friend Callippus who was one of his captains, and is described by Plutarch as λαμπρὸς ἐν τοῖς ἀγῶσι καὶ διδασμος. Ultimately, in the spring or summer of 353, Dion was assassinated by Callippus, who after usurping the government for thirteen months, was defeated in battle by a brother of the younger Dionysius, and after wandering about in Sicily and establishing himself in Southern Italy, at Rhegium, was shortly after (probably in B.C. 350) himself killed by his friends, with the very sword (as the story runs) with which he murdered Dion. (Plutarch, *Dion*, 17, 28—58; Plato *Ep.* vii.; Diodorus xvi. *passim*.)

In the present passage Apol-

lodorus is stated to have prosecuted Callippus τοῦ οὗν ὄντος ἐν Σικελίᾳ. The Athenian fleet (with Callippus) reached Athens from the Thracian coasts in Feb. 360, and Callippus started for Syracuse from Zacynthus in Aug. 357, so that the plaintiff's prosecution of him cannot well be placed later than the spring of 357, though it may have been two years earlier in 359, and in any case about the same time as his prosecutions of Timomachus, Meno and Autocles. (A. Schaefer *Dem. u. s. Zeit.* III. 2. 158—161.)

If the present speech is as late as 350 B.C., Callippus was still alive; at any rate, the news of his death cannot have reached Athens.

οὐ Τιμοθέου;] The charge against Timotheus, the celebrated Athenian general, may have been connected with his defeat at Amphipolis B.C. 360. At first sight the allusion might be explained of the plaintiff's private suit (Or. 49) against the general for sums borrowed from Pasion (cf. above § 36 n.); but the context appears to point expressly to public indictments (δημοσίᾳ in the previous sentence and τῶν κοινῶν in the next); though this reason is not conclusive, as the first part of the previous sentence refers to δίκαι ἴδιαι.

54. Ἀπολλόδωρον ὄντα κ.τ.λ.] *Aculeatum et amarum dictum*. Reiske. It is not like *Apollodorus*, it is inconsistent with his true character, to be going out of his way to undertake public prosecutions where his own interests

ἡδικοῦ, δίκην ἀξιούν λαμβάνειν, ἢ τῶν ἰδίων ὧν νῦν ἐγκαλεῖς, ἄλλως τε καὶ τηλικούτων ὄντων, ὥς σὺ φῆς; τί ποτ' οὖν ἐκείνων κατηγορῶν τόνδ' εἶας; οὐκ ἡδικοῦ, ἀλλ', οἶμαι, συκοφαντεῖς νῦν. ἡγοῦμαι τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, πάντων μάλιστ' εἰς τὸ πρᾶγμα εἶναι τούτων μάρτυρας παρασχέσθαι τὸν γὰρ συκοφαντοῦντα ἀεὶ τί χρὴ νομίζειν νῦν ποιεῖν; καὶ νῆ Δί' ἔγωγε, ὦ ἄνδρες Ἀθηναῖοι, νομίζω πάνθ' ὅσα τοῦ τρόπου τοῦ Φορμίωνός ἐστι σημεῖα καὶ τῆς τούτου δικαιοσύνης καὶ φιλανθρωπίας, καὶ ταῦτ' εἰς τὸ πρᾶγμ' εἶναι πρὸς ὑμᾶς εἰπεῖν. ὁ μὲν γὰρ περὶ πάντ' ἄδικος τάχ' ἂν, εἰ τύχοι, καὶ τοῦτον ἡδίκηι· ὁ δὲ μηδένα μηδὲν ἡδικηκώς, πολλοὺς δὲ εὖ πεποιηκώς ἐκὼν ἐκ τίνος εἰκότως ἂν<sup>κ</sup> τρόπου τοῦτον μόνον ἡδίκηι τῶν πάντων; τούτων τοίνυν τῶν μαρτυριῶν ἀκούσαντες γνώσεσθε τὸν ἐκατέρου τρόπον.

## ΜΑΡΤΥΡΙΑΙ.

56 Ἴθι δὴ λέγε<sup>1</sup> καὶ τὰς πρὸς Ἀπολλόδορον τῆς πονηρίας.

<sup>1</sup> Δία Ζ.<sup>κ</sup> ΣτΔ<sup>1</sup>. δὲ εἰκότως Ζ.<sup>1</sup> coniecit G. H. Schaefer. om. Ζ cum libris.

were but partially affected, to the neglect of private suits in which, as he says, he has a direct and an important concern. If Apollodorus had been really wronged by Phormio, he would have prosecuted him before. For the emphatic reference to the name, cf. Cicero, ad Att. v. 2, '...quum Hortensius veniret et infirmus et tam longe et Hortensius.'

μέρος.] 'In part alone,' as only one aggrieved person, out of many. So τὸ μέρος in Herod. i. 120, ii. 173, and μέρος τι in Thuc. iv. 80.

τῶντων μάλιστ' εἰς τὸ πρᾶγμα.] 'Very much to the purpose,'

'anything but irrelevant.' The depositions about to be produced on the general character of plaintiff and defendant, are liable to objection on the ground of their being beside the question. The speaker here meets that objection beforehand.

56. τὰς.] sc. μαρτυρίας. 'Testimony to the plaintiff's bad character.'

The four sets of depositions may probably be grouped as follows:

(1) General evidence of Phormio's good character.

(2) On his opponent's bad character.

(3) On Phormio's generosity



## ΜΑΡΤΥΡΙΑΙ.

Ἄρ' οὖν ὅμοιος οὗτοσί, σκοπεῖτε. λέγε.

## ΜΑΡΤΥΡΙΑΙ.

Ἀνάγνωθι δὴ καὶ ὅσα δημοσίᾳ χρήσιμος τῇ πόλει γέγονεν οὗτοσί.

## ΜΑΡΤΥΡΙΑΙ.

- 57 Τοσαῦτα τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, Φορμίων χρήσιμος γεγονὼς καὶ τῇ πόλει καὶ πολλοῖς ὑμῶν, καὶ οὐδένα οὐτ' ἰδίᾳ οὔτε δημοσίᾳ κακὸν οὐδὲν εἰργασμένος, οὐδ' ἀδικῶν Ἀπολλόδωρον τουτονί, δέεται καὶ ἱκετεύει καὶ ἀξιοῖ σωθῆναι, καὶ ἡμεῖς συνδεόμεθα οἱ 962 ἐπιτήδειοι ταύθ' ὑμῶν. ἐκείνο δ' ὑμᾶς ἀκοῦσαι δεῖ. τοσαῦτα γὰρ, ὦ ἄνδρες Ἀθηναῖοι, χρήμαθ' ὑμῖν ἀνε-

to those in need (§ 58, ἀκούετε ... οἶον τοῖς δεηθεῖσι παρέχει).

(4) On Phormio's public benefactions (§§ 56, 57, χρήσιμος τῇ πόλει, and § 58 ad fin.).

Ἄρ' οὖν ὅμοιος οὗτοσί, σκοπεῖτε.] Look on this picture and on that.

§ 57 to end. The defendant not only implores your protection, but claims it as his right. Generous in his benefactions and apart from his actual resources enjoying credit for at least as much besides, he is enabled by means of that good credit to be of advantage, not to himself alone, but to yourselves as well. Do not suffer so worthy, so energetic, so generous a man of business to be ruined by this abominable blackguard. Most of the plaintiff's statements you will simply disregard as baseless calumny, but you must order him to prove either that there was no will (cf. § 33), or that there is some other lease besides that produced on our side (cf. § 9), or that he did not

give the defendant a release from all claims (§§ 15, 16), or that the laws allow a claim to be set up when once such a release has been given (§§ 23—5). Challenge him to prove any one of these points; or anything like them. If, for want of such proof, he resorts to ribaldry, don't attend to him, don't allow his loud and shameless assertions to mislead you; but carefully remember what you have heard on our side. If so, you will give a verdict which will be true to your consciences, true to the cause of justice. (The clerk shall read you the law and the remaining depositions.)

That is our case, gentlemen: I need not detain you any longer.

57. δέεται καὶ ἱκετεύει καὶ ἀξιοῖ σωθῆναι.] Requests, implores and claims your protection. Or. 27 § 68, and 57 § 1, δέομαι καὶ ἱκετεύω καὶ ἀντιβολῶ.

ταύθ'.] Perhaps we should read ταύθ'.

χρήμαθ' ὑμῖν ἀνεγνώσθη προσ- ἡνπορηκώς.] C. B. Kennedy

γνώσθη προσηυπορηκώς<sup>m</sup> ὅς οὐθ' οὗτος οὐτ' ἄλλος  
οὐδεὶς κέκτηται. πίστις μέντοι Φορμίῳ παρὰ τοῖς  
εἰδόσι καὶ τοσοῦτων καὶ πολλῶ πλειόνων χρημάτων  
ἐστὶ, δι' ἧς καὶ αὐτὸς αὐτῷ καὶ ὑμῖν χρήσιμός ἐστιν.  
58 ἂ μὴ προήσθε<sup>n</sup>, μὴδ' ἐπιτρέψῃτε ἀνατρέψαι τῷ μιαιφῷ

<sup>m</sup> προσευ. Z.

<sup>n</sup> Bekk. cum A'r. προεῖσθε prima manu Σ. πρόσθε Z (vulgo et correctus Σ).

translates: 'It has been read out to you, that he has acquired such a heap of money as neither he nor any one else possesses.' This can hardly be right, particularly as such a blunt assertion of Phormio's affluence would be a very invidious statement for his friends to make, and would not ingratiate him in the eyes of the court. εὐπορεῖν χρήματα (or χρημάτων) has two senses, (1) 'to be well off'; (2) 'to supply money.' 'εὐπορεῖν,' says Lobeck (*Parergap.* 595), 'non solum significat abunde habere...sed etiam suppetitare: ἐπικουρίαν ταῖς χρεαῖς ἐξευπορεῖν Plato Legg. xi. 153; χρήματα ὑμῖν προσευπορηκώς Dem. Phorm. 962. Cf. Apat. 894. 14' (Or. 33 § 7 εὐπορήσεν αὐτῷ δέκα μνᾶς); 'de reb. Chers. p. 94 (συνευποροῦντας ἐκείνῳ χρημάτων); Boeot. p. 1019 (Or. 40 § 36 χρήματα εὐπορήσας); Neaer. 1369. 10; Aeschin. Timarch. p. 121; Lyeurg. Leocr. p. 233; quibus inter se collatis intelligitur, quanta sit utriusque notionis contagia, a Romanis quoque unius verbi suppetendi angustia conclusa.' (See note on Or. 40 § 36, and cf. 33 § 6 τριάκοντα μνᾶς συνευπορήσας.)

We must here take the secondary sense of εὐπορεῖν, and explain the passage as follows: 'The depositions read aloud to

you show that the defendant has (lit. he has been recited to you as having) provided you on emergencies with larger sums of money than his own (οὗτος i.e. our friend, the defendant's) or any one else's private fortune amounts to; but then he has credit, &c.' The sentence πίστις μέντοι κ.τ.λ. shows how it came to pass that Phormio was enabled, as a capitalist in the enjoyment of extensive credit in the commercial world, to advance sums of money larger than the private resources of any single individual.

πίστις.] 'Credit.' Cf. § 44, πίστις ἀφορμή κ.τ.λ.

58. ἂ μὴ προήσθε.] 'Do not throw this away,' i.e. 'do not sacrifice these advantages to the interests of the plaintiff.'

μὴδ' ἐπιτρέψῃτε ἀνατρέψαι.] Possibly an unintentional collocation of two compounds of τρέπειν. One word, however, might suggest the other, 'Do not suffer this wretch to overturn it,' i.e. overthrow the defendant from his high position and good credit.

[The metaphor is perhaps from overthrowing a fabric of wealth, as in Aesch. Pers. 165, μὴ μέγας πλοῦτος κόνισας οὐδας ἀντρέψῃ ποδὶ ἑλθὼν δὲν Δαρείος ἦεν οὐκ ἀνευ θεῶν νῦνός, i.e. 'injuriouso pede proruere.' P.]

In Liddell and Scott the

τούτῳ ἀνθρώπῳ, μηδὲ ποιήσητε αἰσχροὺς παρὰδειγμα,  
ὥς τὰ τῶν ἐργαζομένων καὶ μετρίως ἐβελόντων ζῆν τοῖς  
βδελυροῖς καὶ συκοφάνταις ὑπάρχει παρ' ὑμῶν λαβεῖν·  
πολὺν γὰρ χρησιμώτερα ὑμῖν παρὰ τῷδε ὄντα ὑπάρχει.  
ὁρᾶτε γὰρ αὐτοὶ καὶ ἀκούετε τῶν μαρτύρων, οἷον ἔαν-  
59 τὸν τοῖς δεηθεῖσι παρέχει. καὶ τούτων οὐδὲν ἕνεκα  
τοῦ λυσιτελοῦντος εἰς χρήματα πεποιήκεν, ἀλλὰ  
φιλανθρωπία καὶ τρόπου ἐπιεικείᾳ. οὐκ οὐν ἀξίον, ὃ  
ἄνδρες Ἀθηναῖοι, τὸν τοιοῦτον ἄνδρα προέσθαι τούτῳ,  
οὐδὲ τμηκαῦτα ἐλεεῖν ὅτ' οὐδὲν ἔσται τούτῳ πλεόν,  
ἀλλὰ νῦν ὅτε κύριοι καθέστατε σῶσαι· οὐ γὰρ ἔγωγ'  
ὁρῶ καιρὸν ἐν τίνι ἂν μᾶλλον βοηθήσειέ τις αὐτῷ.

phrase ἀνατρέπειν τράπεζαν is explained 'to upset a banker's table, i.e. to make him bankrupt.' The only passage quoted is Dem. 403. 7, where however there is no reference whatever to a bankruptcy, but only to the overturning of a table towards the close of a disorderly banquet.

In *Andocides de Mysteriis*, § 180, we have a curious passage stating that in Athens there was a story current among the old wives and the little children, that the house of Hipponicus was haunted by an unquiet spirit that overturned his table (*Ἰππώνικος ἐν τῇ οἰκίᾳ ἀλιτῆρον τρέφει, ὃς αὐτοῦ τὴν τράπεζαν ἀνατρέπει*). πῶς οὖν (the orator continues) ἡ φήμη ἥ τότε οὐσα δοκεῖ ὑμῖν ἀποβῆναι; οἰόμενος γὰρ Ἰππώνικος υἱὸν τρέφειν, ἀλιτῆριον αὐτῷ ἔτρεφεν, ὃς ἀνατέτροφεν ἐκείνου τὸν πλοῦτον, τὴν σωφροσύνην, τὸν δ' ἄλλον βίον ἅπαντα. But the only place, so far as I can find, in which the phrase has a distinct reference to bankruptcy is the Scholium on Dem. Timocr.

§ 186, where δαμῆσαι τοῖς τραπέζιταις is followed by ἐτυχεν ὕστερον ἀνατραπῆναι τὰς τραπέζας (Baier and Sauppe, *Orat. Att.* ii. 119. 6. 35). See § 50 *ἐξέστησαν*, n.

αἰσχροὺς παρὰδειγμα κ.τ.λ.] 'A disgraceful precedent that the property of men in business, who live respectable lives, may be obtained from you by miscreants and pettifoggers.' *Κ. ὑπάρχει*, 'that the laws allow,' 'that it is a condition of your polity.'

59. τοῦ λυσitel. εἰς χρήματα.] *Pecuniary* advantage; instead of being placed between the article and participle, as would be most natural, *εἰς χρήματα* is reserved for a more emphatic position.

καιρὸν ἐν τίνι.] Confused between *ἐν τίνι καιρῷ*, and *καιρὸν ἐν ᾧ*, κ.τ.λ. Cf. Or. 56 § 24 n., and Plat. Rep. p. 399 n βίον ρυθμοῦς ἰδεῖν κοσμοῦ τε καὶ ἀνδρείου τινες εἰσὶν· οὗς ἰδόντα κ.τ.λ. Cf. Isocr. ad Dem. § 5 συμβουλεύειν, ὅν' χρή...δρέγεσθαι καὶ τίνων ἔργων ἀπέχεσθαι, n.

- 60 τὰ μὲν οὖν πολλὰ ὦν Ἀπολλόδωρος ἐρεῖ, νομίζετ' εἶναι λόγον καὶ συκοφαντίας, κελεύετε δ' αὐτὸν ὑμῖν<sup>ο</sup> ἐπιδείξαι ἢ ὡς οὐ διέθετο ταῦθ' ὁ πατήρ, ἢ ὡς ἔστι τις ἄλλη μίσθωσις πλὴν ἧς<sup>ρ</sup> ἡμεῖς δείκνυμεν, ἢ ὡς οὐκ ἀφήκεν αὐτὸν διαλογισάμενος τῶν ἐγκλημάτων ἀπάντων ἃ ἔγνω ὁ κηδεστής ὁ τούτου καὶ οὗτος αὐτὸς συνεχώρησεν, ἢ ὡς διδῶσιν οἱ νόμοι δικάζεσθαι τῶν οὕτω  
 61 παραχθέντων, ἢ τῶν τοιούτων τι δεικνύναι. ἐὰν δ' ἀπορῶν αἰτίας καὶ βλασφημίας λέγῃ καὶ κακολογῇ, μὴ προσέχετε τὸν νοῦν, μηδ' ὑμᾶς ἢ τούτου κραυγῇ 963 καὶ ἀναίδεια ἐξαπατήσῃ, ἀλλὰ φυλάττετε καὶ μέμνησθε ὅσ' ἡμῶν ἀκηκόατε. κἂν ταῦτα ποιήτε, αὐτοί τ' εὐορκήσετε καὶ τοῦτον δικαίως σώσετε, ἄξιον ὄντα νῆ τὸν Δία καὶ θεοὺς ἅπαντας.  
 62 Ἀνάγνωθι λαβὼν αὐτοῖς τὸν νόμον καὶ τὰς μαρτυρίας τασδί.

## NOMOS. ΜΑΡΤΥΡΙΑΙ.

<sup>ο</sup> Bekk. om. Z et Bekker st. cum Σ.<sup>ρ</sup> Bekk. ἢν Z cum Σr (etiam FΦ).

60. λόγον καὶ συκοφ.] i.e. empty talk, and baseless misrepresentation. For λόγος, 'mere talk,' cf. Or. 20, Lept. § 101, εἰ δὲ ταῦτα λόγους καὶ φλυαρίας εἶναι φήσεις, ἐκείνῳ γ' οὐ λόγος. ἐπιδείξαι.] Plaintiff is challenged 'to demonstrate,' not to rest content with vague calumny, but to proceed to prove, &c.

διαλογισάμενος.] See § 23. ἐγκλημάτων δ' ἔγνω.] Claims which were the subject of the award (γνώσις) of Deinias, 'δ' ἔγνω, quae disceptavit.' G. H. Schaefer. Cf. § 17 init.

δείκνυναι.] sc. κελεύετε, 'tell him to try if he can show,' &c.

To be distinguished from ἐπιδείξαι just above.

61. λέγῃ.] 'Go on talking,' &c.

[φυλάττετε may mean 'retain in your mind,' though the middle is more usual. So Aesch. Suppl. 179, αἰνῶ φυλάξαι τὰμ' ἔπη δελτούμενας. But we may also render it 'keep a guard over him,' though not, of course, 'beware of him,' which would be φυλάττεσθε. P.]

62. τὸν νόμον καὶ τὰς μαρτυρίας.] The context does not show what law or what depositions are referred to: possibly another νόμος of the same general purport as that recited before,

Οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν<sup>α</sup> ὁμῶς γὰρ ὑμᾶς  
οὐδὲν ἀγνοεῖν τῶν εἰρημένων. ἐξέρα τὸ ὕδωρ.

<sup>α</sup> οἶμαι Z (cf. § 18).

§ 25 (ὣν μὴ εἶναι δίκας), and further evidence to facts or to the defendant's character (ἀξιον δντα, § 61).

οὐκ οἶδ' ... εἰρημένων.] The same sentence *verbatim* is found at the close of Or. 20 (Lept.), 88 (Nausimach.), and 54 (Conon); and also at the end of the 7th and 8th speeches of Isaeus.

ἐξέρα τὸ ὕδωρ.] 'Pour out the water.' See Midias, § 129. (Cf. ἐξερᾶν τοὺς λίθους in Ar. Ach. 341, and τὰς ψήφους in Vesp. 993.) The only other passage where the phrase is found is at the end of Or. 88, where the *whole* of this short epilogue recurs.

The speaker having concluded his speech within the legal limits of time measured by the

κλεψύδρα, pointedly calls on the attendant to empty the 'water-clock.' The rhetorical effect is that the court is reminded that the speaker has spared them a longer speech, and the defendant gets the credit of having so good a cause that the orator does not find it necessary to avail himself of the full time at his disposal.

The result of Phormio's plea is thus stated by Apollodorus (Or. 45) κατὰ Στεφάνου Α, § 6, οὕτω διέθηκε τοὺς δικαστὰς ὥστε φωνὴν μὴδ' ἡρτινοῦν ἐθέλειν ἀκούειν ἡμῶν προσοφλῶν δὲ τὴν ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιοθεῖς, ὥς οὐκ οἶδ' εἰ τις πώποτε ἄλλος ἀνθρώπων, ἀπῆεν βαρέως, ὦ ἄνδρες Ἀθηναῖοι, καὶ χαλεπῶς φέρων.

# XLV.

## ΚΑΤΑ ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

### ΤΠΟΘΕΣΙΣ.

Ὅτε Ἀπολλόδωρος ἔκρινε Φορμίωνα τῆς τραπέζης ἀφορμὴν ἐγκαλῶν, ὁ δὲ τὴν δίκην παρεγράψατο, ὁ<sup>α</sup> Στέφανος μετ' ἄλλων τινῶν ἐμαρτύρησε Φορμίῳ, ὡς ἄρα ὁ μὲν Φορμίῳ προῦκαλεῖτο Ἀπολλόδωρον, εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν τοῦ πατρὸς Πασίωνος, Φορμίῳ<sup>β</sup> παρασχεῖν ἀνοῖξαι τὰς διαθήκας αὐτάς, ἃς ἔχει καὶ παρέχεται Ἀμφίας, Ἀπολλόδωρος δὲ ἀνοίγειν οὐκ ἠθέλησεν, ἔστι δὲ ἀντίγραφα τὰδε τῶν διαθηκῶν τῶν Πασίωνος. ταύτην ἐμαρτύρησαν τὴν μαρτυρίαν οἱ περὶ Στέφανον, τοῦ Ἀπολλοδώρου λέγοντος κατὰ τοῦ Φορμίῳ<sup>γ</sup> ὡς ἄρα τὰς διαθήκας πέπλακε καὶ τὸ ὅλον πρᾶγμα σκευά-

[Δημοσθένους] κατὰ Στεφάνου ψευδομαρτυρίων α. 'hanc orationem nobis non videri Demosthenis esse significavimus' Z.

<sup>α</sup> om. Z. addidit Dind. ex Σ. [om. Kerrich ms.]

<sup>β</sup> om. Z. πατρὸς Φορμίῳ<sup>β</sup> παρασχεῖν libri. correxit Dind. ex

Σ in quo scriptum πατρὸς φορμίῳ<sup>β</sup> πασίῳ<sup>α</sup>νος, παρασχεῖν. [τῶν δικῶν τῶν τοῦ πατρὸς φορμίῳ<sup>β</sup>νος, πασίῳ<sup>α</sup>νος παρασχεῖν, et infra l. 11 μορφίῳ<sup>γ</sup>νος, l. 12 πέπλακε. Kerrich ms.]

Argument. τραπεζῆς ἀφορμὴν ἐγκαλῶν.] See Argument to Or. 36, l. 22 n. On παρεγράψατο see ib. l. 23 n.

8. Στέφανος ἐμαρτύρησε κ.τ.λ.] See infra § 8. The ἄλλοι τινές are called Ἐνδῖος and Σκύθης in the document there quoted.

4. εἰ μὴ φῇσιν.] 'P. made A. a proposal, that if A. denies that the copies put in are copies of

the will of his father Pasion, he shall let Phormio open the will itself which is in the custody of, and is produced by Amphias.'

8. ἔστι δὲ ἀντίγραφα κ.τ.λ.] The clause is continued from ὡς, 'that the document produced is a copy of Pasion's will.'

12. πέπλακε...σκευώρημα.] Or. 36 § 83, πλάσμα καὶ σκευώρημα ὅλον, and infra § 42.

ρημά ἐστιν. ἡττηθεὶς τοίνυν τὴν δίκην Ἀπολλόδωρος  
ὑπὲρ τῆς μαρτυρίας ὡς ψευδοῦς οὔσης τῷ Στεφάνῳ  
15 δικάζεται.

*Argumentum habet Σ sed manu recentiore.*

1. Καταψευδομαρτυρηθεὶς, ὦ ἄνδρες Ἀθηναῖοι, καὶ  
παθὼν ὑπὸ Φορμίωνος ὑβριστικὰ καὶ δεινὰ δίκην  
παρὰ τῶν αἰτίων ἤκω ληψόμενος παρ' ὑμῖν. δέομαι  
δὲ πάντων ὑμῶν καὶ ἱκετεύω καὶ ἀντιβολῶ πρῶτον

§§1—2. Exordium (προόμιον).  
Having been defeated by false  
testimony in my suit against  
Phormio, I have come into court  
to claim a verdict against those  
who compassed that outrageous  
and atrocious wrong. I ask the  
jury to give me a friendly and  
favourable hearing; and, if I  
make good my case, to grant me  
the redress which is my due.

In the former trial, the defend-  
ant Stephanus in particular  
gave false evidence against me,  
prompted by corrupt motives;  
and I propose to prove this from  
his own testimony. A brief re-  
cital of the relations between  
Phormio and myself will help  
the jury to form an opinion on  
the villany of Phormio and the  
falsehood of his witnesses.

The Exordium is not unlike  
that of Or. 54, κατὰ Κόνωνος,  
where, as here, the προαῦλιον  
(Ar. Rhet. III. 14) or, as we should  
say, the key-note of the whole  
speech is struck in the opening  
words: ὑβρισθεὶς ὦ ἄνδρες  
δικασταὶ καὶ παθὼν ὑπὸ Κόνωνος  
κ.τ.λ.—The appeal *ad captan-*  
*dam benevolentiam*, πρῶτον μὲν  
εὐνοϊκῶς ἀκούσαι μου, also occurs  
in Or. 54 § 2, and similarly the  
formula εἰτ' ἐὰν (ἡδικῆσθαι καὶ  
παραινεομῆσθαι) δοκῶ, βοηθῆσαι  
μοι τὰ δίκαια, and lastly the

promise of brevity, ὡς ἂν οὕτως  
τε ὦ διὰ βραχυτάτων.

καταψευδομαρτυρηθεὶς.] 'Crush-  
ed by' (or 'having been the  
victim of') false testimony.'  
Cf. Or. 33 § 37, and Plat.  
Gorg. 472 v. Harpoer. κατα-  
ψευδομαρτυρησάμενος· ἀπὸ τοῦ  
παρασχῶν τὰ ψεύδη (ἀπ' ψευδῆ?)  
μαρτυρήσαντας. Δημοσθένης ἐν τῷ  
κατὰ Στεφάνου. The lexicogra-  
pher intended doubtless to refer  
to Or. 29 § 6, where the middle  
participle explained by him is  
to be found.

δέομαι ... ἱκετεύω ... ἀντιβολῶ.]  
Cf. *infra* § 85, Or. 27 (Aphobus A)  
§ 68, and 57 (Eubul.) § 1. Such  
combinations of two or three  
nearly synonymous verbs are  
very common in the undisputed  
speeches of Demosthenes (e.g.  
Or. 36 § 47, ἀγεις εἰς μέσον,  
δακνύεις, ἐλέγχεις; *ib.* 52, εὐαύ-  
ρεις, συκοφαντεῖς, διώκεις; *ib.* 57,  
δεῖται καὶ ἱκετεῖν καὶ ἐξιοῖ; Or.  
54 § 33, δικάζομαι καὶ μισῶ καὶ  
ἐπεξέρχομαι). The speech ὑπὲρ  
Φορμίωνος alone contains nearly  
forty such passages; of the  
speeches delivered by Apollo-  
dorus, the first oration against  
Stephanus has more than 30,  
while in the rest there is hardly  
anything of the kind, though in  
the second speech against Ste-  
phanus, § 28, we have δέομαι

μὲν εὐνοϊκῶς ἀκοῦσαί μου· μέγα γὰρ τοῖς ἡτυχηκόσιν,  
ὥσπερ ἐγὼ, δυνηθῆναι περὶ ὧν πεπόνθασιν εἰπεῖν καὶ  
εὐμενῶς ἐχόντων ὑμῶν ἀκροατῶν τυχεῖν· εἴτ' ἂν ἀδι-  
2 κέσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια. ἐπιδείξω δ'  
ὑμῖν τουτοῦ Στέφανον καὶ μεμαρτυρηκότα τὰ<sup>ε</sup> ψευδῇ,  
καὶ δι' αἰσχροκερδία<sup>δ</sup> τοῦτο πεποιηκότα, καὶ κατήγο- 1102  
ρον αὐτὸν αὐτοῦ γιγνόμενον τοσαύτη περιφάνεια τοῦ  
πράγματός ἐστιν. ἐξ ἀρχῆς δ' ὡς ἂν οἷός τε ὦ δια  
βραχυτάτων εἰπεῖν πειράσομαι τὰ πεπραγμένα μοι  
πρὸς Φορμίωνα, ἐξ ὧν ἀκούσαντες τὴν τ' ἐκείνου<sup>ε</sup> πονη-  
ρίαν καὶ τούτους, ὅτι τὰ ψευδῇ μεμαρτυρήκασιν, γνώ-  
σεσθε.

<sup>ε</sup> om. Z cum libris. addidit Reiskius.

<sup>δ</sup> Σ, qui sic ubique. Bekk.

αἰσχροκέρδειαν Ζ.

<sup>ε</sup> τὴν τε τούτου Ζ cum libris.

τὴν τ' ἐκείνου Bekker cum

γρ. FFB.

καὶ ἡκεῖν. (J. Sigin Jahrb. für  
Class. Philol. Suppl. vi. p. 419.)

εὐμενῶς.] Almost equivalent  
to εὐνοϊκῶς in the last sentence;  
εὐμενῆς, however, is not so tri-  
vial a word as εὐνους. The  
former is frequent in Attic verse,  
the latter is generally found in  
prose; the former is most often  
used of the gracious conde-  
scension of a deity; the latter of  
the kindly feelings of ordinary  
human beings. Or. 4 § 45, τὸ  
τῶν θεῶν εὐμενές, illustrates the  
rule, while the exception in the  
present passage may be paral-  
leled from Herod. vii. 237, ξείνος  
δὲ ξείλω...εὐμενέστατον πάστων.  
[Add Eur. Alc. 319, οὐδὲν μητρὸς  
εὐμενέστερον, El. 601, ἔστιν τί μοι  
κατ' Ἄργος εὐμενές φίλων; Aesch.  
Suppl. 488 and 518 Dind. P.]

2. τὰ ψευδῇ.] *Additum articu-  
lum hoc vel illud testimonium  
peculiariter indicat, contra μαρ-  
τυρεῖν ψευδῇ (cf. § 41) vel ἀληθῇ  
(§ 52) tantummodo significat*

μαρτυρεῖν ψευδῶς vel ἀληθῶς'  
(Beels, *Diatrise*, p. 79). [inf. § 5,  
τὰ ψευδῇ μου κατεμαρτύρησεν,  
'gave this false evidence against  
me.' Thus often in the Trage-  
dians τὰ δεινὰ, where some  
special atrocity is described. But  
here we may render, 'has given  
evidence which was false.' P.]

τοσαύτη περιφάνεια κ.τ.λ.]  
'So transparent is the case.'  
'So plain and clear from every  
point of view.' Or. 29 § 1 (also  
of false witness), ῥαδίως ἐξελέγξας  
διὰ τὴν περιφάνειαν τῶν πραγμά-  
των. Isaeus, Or. 7 § 28, τοσαύτη  
περιφάνεια τῆς ἐμῆς ποιήσεως  
ἐγένετο παρ' αὐτοῖς...ἐπὶ τοσούτων  
μαρτύρων γέγονεν ἡποίησις. Cf.  
Hom. Od. i. 426, περισκέπτῳ  
ἐπὶ χώρῳ, and ib. v. 476, ἐν  
περιφαινομένῳ.

ἐξ ὧν...γνώσεσθε.] This being  
the syntax, ἀκούσαντες must be  
taken by itself, 'when you have  
heard it.'

ἐκείνου.] sc. Φορμίωνος.



- 3 Ἐγὼ γάρ, ὡς ἄνδρες δικασταὶ, πολλῶν χρημάτων ὑπὸ τοῦ πατρὸς καταλειφθέντων μοι, καὶ τὰτα Φορμίωνος ἔχοντος, καὶ ἔτι πρὸς τούτοις τὴν μητέρα γήμαντος τὴν ἐμὴν ἀποδημούντος ἐμοῦ δημοσίᾳ τριηρ-

§§ 3—8. Narrative (διήγησις). *My father Pasion left behind him at his death a large property which got into the hands of Phormio, who also married Pasion's widow, my mother Archippe, during my absence from Athens on public service. On my return, I threatened Phormio with legal proceedings in consequence of this marriage, but my case did not come on; and afterwards a reconciliation was brought about. Subsequently, however, on Phormio's refusing to fulfil his engagements and attempting to rob me of the banking-stock leased him by my father, I was compelled to prosecute him at the earliest opportunity.*

*Phormio thereupon put in a special plea in bar of action, and brought forward false witnesses to shew that I gave him a discharge from all further claims, and to attest to a lease which in fact was a fabrication and to a will that never existed.*

*The result of his plea, which gave him the advantage of the first hearing, was that the jury would not listen to me at all; I was fined for failing to make good my case and left the court in high dudgeon at my ill-treatment. On reflection, however, I feel that the jury, in their ignorance of the real facts, could not, on the evidence, have found any other verdict; but I have a right to be indignant with the false witnesses who brought about that result,—and with Stephanus in particular whose evidence shall*

*be read to the court. (The evidence is read.)*

δημοσίᾳ.] To be taken with ἀποδημούντος. 'Cum publice (in causa publica) abessem.' The fondness of the Greeks for participles is shewn by the addition of τριηραρχούντος which is subordinate to, and explanatory of, ἀποδημούντος. Or. 36 § 25, and *Madv. Gk. Synt.* § 176, d.

This trierarchy of Apollodorus may almost certainly be connected with the negotiations between Athens and the Elder Dionysius towards the close of his career. It appears from a decree discovered near the Propylaea in 1837, and restored by A. Kirchhoff in the *Philologus* for 1857 (xii. p. 571—8), that Athenian ambassadors were sent to Syracuse in the summer of B.C. 369 and in B.C. 368. Cf. esp. τοῦτων δὲ τοὺς ἐπὶ Δυσσεύων ἀρχόντας πρέσβεις διακομίζειν τὴν ὁμολογίαν. The trierarchy may be identified with that of Or. 53 § 5, and probably belongs to the later of these two embassies in B.C. 368, as we read in Or. 46 § 21, ἐγὼ μὲν ἀπεδήμουν τριηραρχῶν, τετελευτήκει δ' ὁ πατήρ πάλαι, ὅτε οὗτος ἐγήμει, where πάλαι, though a vague word, shews at any rate that a considerable time elapsed between the death of Pasion in B.C. 370 (Or. 46 § 18), and his widow's marriage with Phormio. (Im. Hermann, *de tempore*, etc. p. 9; A. Schaefer, *Dem. und seine Zeit*, III. 2. 146; and Lortzing, *Apollodorus*, p. 3.)

αρχούντος ὑμῖν (ἐν τρόπῳ δὲ, οὐκ ἴσως καλὸν νίει  
περὶ μητρὸς ἀκριβῶς εἰπεῖν), ἐπειδὴ καταπλεύσας  
ἡσθόμην καὶ τὰ πεπραγμένα εἶδον, πολλὰ ἀγανακτήσας  
καὶ χαλεπῶς ἐνεγκὼν δίκην μὲν οὐχ οἷός τ' ἦν ἰδίαν  
4 λαχεῖν (οὐ γὰρ ἦσαν ἐν τῷ τότε καιρῷ δίκαι, ἀλλ' ἀνε-  
βάλλεσθε ὑμεῖς διὰ τὸν πόλεμον), γραφὴν δὲ ὕβρεως  
γράφομαι πρὸς τοὺς θεσμοθέτας αὐτόν. χρόνου δὲ  
γιννομένου, καὶ τῆς μὲν γραφῆς ἐκκρουομένης, δικῶν  
δὲ οὐκ οὐσῶν, γίνονται παῖδες ἐκ τούτου τῇ μητρί  
καὶ μετὰ ταῦτα (εἰρήσεται γὰρ ἅπαντα πρὸς ὑμᾶς ἡ  
ἀλήθεια, ὧ ἄνδρες δικασταί) πολλοὶ μὲν καὶ φιλάν-  
θρωποι λόγοι παρὰ τῆς μητρὸς ἐγίνοντο καὶ δεήσεις

ὃν τρόπον δὲ (sc. ἐγχε) — ἀκρι-  
βῶς εἰπεῖν.] Cf. § 27, διεφθάρκει  
ἦν ἐμοὶ μὲν οὐ καλὸν λέγειν. This  
affectation of dutiful delicacy  
of feeling towards his mother in  
the early portions of the speech  
is rather inconsistent with the  
apparently gratuitous insinua-  
tion towards its close, where he  
broaches the suspicion that his  
own brother Pasicles (who was  
eight years old at his father  
Pasion's death) was really her  
son by Phormio (§ 84).

δίκη ἰδίαν (γραφὴν ὕβρεως.)  
Cf. Or. 54 § 1, ad fin. — διὰ τὸν  
πόλεμον. This suspension of  
lawsuits, which the plaintiff  
found in force on returning  
from his trierarchy in B.C. 368,  
was due to the hostilities be-  
tween Athens and Thebes in  
the period between the battle of  
Leuctra in B.C. 371, and the  
death of Epaminondas at the  
battle of Mantinea in B.C. 362.  
The courts were not sitting for  
ordinary business, perhaps be-  
cause there was no pay for the  
dicasts (cf. Or. 39 § 17); and  
the only process that was avail-  
able under the circumstances

was a public action. So just  
below δικῶν οὐκ οὐσῶν means, as  
the courts continued closed for  
private suits. ὑμεῖς refers to the  
citizens generally, who are said,  
in the medial sense, 'to have  
had the sessions (τὰς δίκας)  
postponed.'

4. γραφὴν ὕβρεως πρὸς τοὺς θε-  
σμοθέτας.] Isocr. Or. 20, κατὰ  
Λοχίτου § 2, περὶ τῆς ὕβρεως...  
ἔξεστι τῷ βουλευμένῳ τῶν πολιτῶν  
γραφῶσιν πρὸς τοὺς θεσμοθέτας  
εἰσελθεῖν εἰς ἡμᾶς. (Hermann,  
Privatalit. § 61, 19.)

χρόνου γιννομένου — γραφῆς ἐκ-  
κρουομένης.] See note on Or. 36 § 2,  
τὸ ἐκκρούοντες χρόνους ἐμποιούμεν.  
For χρόνου δὲ γιννομένου, Reiske  
ingeniously, but perhaps un-  
necessarily, proposes χρόνου δ'  
ἐγγιννομένου, which at any rate  
modifies the slight inelegance of  
the triple repetition γιννομένου  
... γίνονται... ἐγίνοντο. Cf. Or. 47  
§ 63, χρόνον ἐγγενέσθαι.

φιλάνθρωποι λόγοι.] 'Kindly  
overtures.' (Blanditiae. G. H.  
Schaefer.) De Corona, § 29<sup>R</sup>.  
οὕτε φιλανθρωπία λόγων οὕτ'  
ἐπαγγελιῶν μέγεθος. Midias, § 75,  
οὕτε κλαύσαντα οὕτε δεηθέντα...

ὑπὲρ Φορμίωνος τουτουί, πολλοὶ δὲ καὶ μέτριοι καὶ  
 5 ταπεινοὶ παρ' αὐτοῦ τουτου. ἵνα δὲ, ὡς ἄνδρες Ἀθη-  
 ναῖοι, συντέμω ταῦτα, ἐπειδὴ ποιεῖν τε οὐδὲν ἄετο  
 δεῖν ὧν τότε ὡμολόγησε, καὶ τὰ χρήματα ἀποστερεῖν  
 ἐνεχείρησεν ἅ τῆς τραπέζης εἶχεν ἀφορμὴν, δίκην ἡναγ-  
 κάσθην αὐτῷ λαχεῖν, ἐπειδὴ τάχιστα ἐξουσία ἐγένετο. 1103  
 γνοὺς δ' οὗτος ὅτι πάντα ἐξελεγχθήσεται καὶ κάκιστος  
 ἀνθρώπων περὶ ἡμῶς γεγωνὸς ἐπιδειχθήσεται, μηχα-  
 νᾶται καὶ κατασκευάζει ταῦτα, ἐφ' οἷς Στέφανος οὐ-  
 τοσι τὰ ψευδῇ μου κατεμαρτύρησεν. καὶ πρῶτον μὲν  
 παρεγράψατο τὴν δίκην, ἣν ἔφενγε Φορμίων, μὴ εἰς-  
 αγωγίμῳ εἶναι· ἔπειτα μάρτυρας, ὡς ἀφήκα αὐτὸν  
 τῶν ἐγκλημάτων, παρέσχετο ψευδεῖς, καὶ μισθώσεώς  
 τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενο-  
 6 μένης. προλαβὼν δέ μου ὥστε πρότερον λέγειν διὰ τὸ

οὔτε φιλάνθρωπον ... οὐδ' ὅτι οὐκ  
 πρὸς τοὺς δικαστὰς ποιήσαντα,  
 where perhaps bribery is tacitly  
 meant. (Cf. Shilleto on Fals. leg.  
 § 117.)

μέτριοι...ταπεινοί.] i.e. 'both  
 moderate and reasonable in  
 their terms.' Fals. leg. § 15,  
 μετρίους λόγους, where Shilleto  
 quotes Ulpian: ἡγουν ἐπιεικεῖς,  
 φιλάνθρωπους.

5. ἵνα...συντέμω.] The reason for  
 the speaker's huffing over this  
 part of his statement is partly  
 because the overtures of recon-  
 ciliation on Phormio's side,  
 which he takes credit to him-  
 self for candidly admitting, are  
 really more to Phormio's credit  
 than to his own.

δίκην] i.e. the suit κατὰ Φορ-  
 μίωνος, to meet which a special  
 plea is put in on Phormio's  
 behalf in Or. 36. The words  
 ἐπειδὴ τάχιστα ἐξουσία ἐγένετο  
 are possibly meant as a partial

reply (they are at any rate the  
 only reply given in this speech)  
 to that portion of Phormio's  
 plea which traversed his oppo-  
 nent's suit on the ground that  
 it infringed the 'statute of limi-  
 tations' (Or. 36 § 26). But it  
 may be noticed on Phormio's  
 side that at least 18 years had  
 elapsed since the death of  
 Apollodorus' father, and eight  
 since that of his mother, before  
 the suit was instituted; and  
 during the interval the plaintiff  
 found time for ever so many  
 lawsuits in cases where his  
 private interests were but par-  
 tially concerned (Or. 36 § 53).

παρεγράψατο κ.τ.λ.] See notes  
 on p. 2. For μάρτυρας ὡς ἀφήκα,  
 see Or. 36 §§ 24, 25; and for the  
 depositions on the 'lease,' *ib.*  
 § 4, and on the 'will,' *ib.* § 7.

6. πρότερον λέγειν.] 'Malim  
 πρότερος,' Dobree. Cf. Isocr.  
 παραγραφῇ πρὸς Καλλιμαχόν.

παραγραφὴν εἶναι καὶ μὴ εὐθυδικίᾳ εἰσιέναι, καὶ ταῦτ' ἀναγνούς καὶ τᾶλλα, ὡς αὐτῷ συμφέρειν ἡγήτο, ψευ-  
σάμενος, οὕτω διέθηκε τοὺς δικαστὰς, ὥστε φωνὴν  
μηδ' ἡγνιωῦν ἐθέλειν ἀκούειν ἡμῶν· προσοφλῶν δὲ  
τὴν ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιοθεῖς, ὡς  
οὐκ οἶδ' εἴ τις πώποτε ἄλλος ἀνθρώπων, ἀπήειν βα-  
7 ρέως, ὃ ἄνδρες Ἀθηναῖοι, καὶ χαλεπῶς φέρων. λόγον  
δ' ἐμαντῷ διδούς εὐρίσκω τοῖς δικάσασιν μὲν τότε πολ-  
λὴν συγγνώμην οὔσαν (ἐγὼ γὰρ αὐτὸς οὐκ ἂν οἶδ' ὅ  
τι ἄλλο εἶχον ψηφίσασθαι, τῶν πεπραγμένων μὲν μη-  
δὲν εἰδώς, τὰ δὲ μαρτυρούμενα ἀκούων), τούτους δὲ  
ἀξιούς ὄντας ὀργῆς, οἱ τῷ τὰ ψευδῇ μαρτυρεῖν αἰτιοι  
τούτων ἐγένοντο. περὶ μὲν δὴ τῶν ἄλλων τῶν μεμαρ-  
τυρηκότων, ὅταν πρὸς ἐκείνους εἰσῶ, τότε ἐρῶ· περὶ

§ 1, φεύγων τὴν δίκην πρότερος  
λέγω τοῦ διώκοντος. See on Or.  
34 § 4, κατηγορεῖν τοῦ διώκοντος,  
and *ibid.* § 1, ἐν τῷ μέρει λε-  
γόντων. — προλαβὼν = φθάσας,  
'having got the advantage of  
me.'

εὐθυδικίᾳ εἰσιέναι.] We might  
expect the acc. as in Or. 34 § 4,  
εὐθυδικίαν εἰσιόντα, οὐ κατηγορεῖν  
τοῦ διώκοντος (cf. Or. 36 Arg.  
1. 25 ἄπτεται τῆς εὐθείας n.) but  
the dat. is found in Isaeus, Or.  
6 (Philoctem.) § 53, μὴ διαμαρτυ-  
ρίᾳ κωλύειν ἀλλ' εὐθυδικίᾳ εἰσιέναι.  
τὴν ἐπωβελίαν.] The legal  
fine of one-sixth of the amount  
claimed (lit. one obol in each  
drachma, or 6 obols), inflicted  
on the plaintiff in private suits  
(see on Or. 56 § 4) if he failed  
to secure a fifth part of the  
votes. In the present case,  
Apoll. had to pay, in addition  
to costs, about £800, a sixth  
part of 20 talents. (Boeckh,  
Publ. Econ. Book III. § 10=i.  
474, 485 of 2nd Germ. ed.)—For

οὐδὲ λόγου τυχεῖν cf. § 19, ἀπε-  
κλείσθην τοῦ λόγου-τυχεῖν.

7. οὐκ ἂν οἶδ' ὅτι ἄλλο εἶχον.]  
ἂν is often attracted to the ne-  
gative and separated from its  
verb (e.g. εἶχον) by the interpo-  
sition of οἶδα (as here) or οἶμαι,  
δοκῶ, φημί (as elsewhere). (Cf.  
note on Or. 37 (Pant.) § 16, οὐδ'  
ἂν εἴ τι γένοιτο φήσθην δίκην μοι  
λαχεῖν, also Goodwin's *Moods  
and Tenses* § 42, 2, and Shilleto  
on Thuc. I. 76, 4.) It is quite  
unnecessary to accept the sug-  
gestion of Cobet οὐκ οἶδ' ἂν ὅ  
τι (Nov. Lect. 581), or that of  
Dobree 'distingue autors οὐκ ἂν,  
οἶδ' ὅτι, ἄλλο εἶχον.'

πρὸς ἐκείνους εἰσῶ] so. εἰς  
δικαστήριον. 'When I proceed  
against them,' Endius and Sey-  
thes, contrasted with οὐτοῖσι, the  
present defendant. Compare § 17,  
ἐπὶ τούτων ἦα, infr. § 41 ὅταν εἰσῶ  
πρὸς... and Or. 54 § 32 ad fin.  
εἰσιέναι, or εἰσελθεῖν, is used of  
either litigant (e.g. in Or. 40 § 1,  
of the plaintiff; and *ib.* § 5 of

ὦν δ' οὗτοσι Στέφανος μεμαρτύρηκεν, ἤδη πειράσομαι διδάσκειν ὑμᾶς. λαβὲ δ' αὐτὴν τὴν μαρτυρίαν καὶ ἀνάγνωθί μοι, ἵνα ἐξ αὐτῆς ἐπιδεικνύω. λέγε· σὺ δ' ἐπίλαβε τὸ ὕδωρ.

## ΜΑΡΤΥΡΙΑ.

1104

Ἱ[Στέφανος Μενεκλέους Ἀχαρνεὺς, Ἐνδίου Ἐπιγένους Λαμπτρεὺς<sup>5</sup>, Σκύθης Ἀρματέως Κνδαθηναίους

<sup>1</sup> *testimonium omisit Σ. uncas in hac quoque oratione additamenti huius generis addidimus Ζ.*

<sup>5</sup> Λαμπρεὺς Bekker's Berlin ed. (1824). 'immo Λαμπτρεὺς' Ζ, and Bekker's stereotyped Leipzig ed. (1854).

the defendant); and also of the lawsuit itself in Or. 34 § 18. Cf. Or. 34 § 1, οὐδεμίαν πώποτε δίκην πρὸς ὑμᾶς εἰσῆλθομεν, οὐτ' ἐγκαλοῦντος οὐτ' ἐγκαλοῦντος οὐτ' ἐγκαλοῦμενοι ὑφ' ἐτέρων.—ἐξ αὐτῆς, *ex ipsa*, perhaps, rather than *ex ea*.—On ἐπίλαβε τὸ ὕδωρ cf. note on Or. 54 § 36.

Στέφανος Μενεκλέους κ.τ.λ.] Like many, if not most of the documents inserted in the speeches of the Attic Orators, this deposition may be regarded as spurious. Its purport is to be found in §§ 9—26 and in Or. 46 § 5. The names of Tisias, Cephisophon and Amphias are given in §§ 10, 17, and Or. 46 § 5. Stephanus and Tisias, as well as Pasion and Apollodorus are assigned to the deme Acharnae in the documents only (§§ 28, 46), not in the speech itself. Στέφανος Ἀχαρνεὺς appears in an inscription as trierarch in B. C. 322, but this is not likely to be the defendant in the present action, for at that date the latter, if (as is not improbable) he was about the same age as Apollodorus, would be about seventy; and we can hardly suppose that one who was so

poor a patriot as not to have undertaken any public services up to the age of 45 or thereabouts (§ 66), would have embarked on a trierarchy at so advanced an age. But the name was far from uncommon, and the *deme* may have been assigned at random by the writer of the document.

The name Ἐνδίου Ἐπιγένους Λαμπτρεὺς is given in one MS. only (cod. Ven. Φ.). An inscription, however, of B. C. 325 gives the name Κριτόδημος Ἐνδίου Λαμπτρεὺς whose father may be the Ἐνδίου of the text, though the name is not a rare one.

Lastly, Σκύθης is naturally an uncommon name for an Athenian, though found as such in an inscription. The name of his father, Ἀρματεὺς, does not occur elsewhere, except in Stephanus of Byzantium, who makes it mean 'an inhabitant of Harma' which he wrongly supposes to be a *deme* of Attica, whereas it was really the name of a part of the ridge of Parnes. (Abridged from A. Westermann's *Untersuchungen über die in die Attischen Redner eingelegten Urkunden*, pp. 105—8).

μαρτυροῦσι παρῆναι πρὸς τῷ διαιτητῇ Τισία Ἀχαρνεῖ, ὅτε προῦκαλεῖτο Φορμίων Ἀπολλόδωρον, εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος τὸ γραμματεῖον ὃ ἐνεβάλετο Φορμίων εἰς τὸν ἔχινον, ἀνοίγειν τὰς διαθήκας τὰς Πασίωνος, ἃς παρείχτο πρὸς τὸν διαιτητὴν Ἀμφίας ὁ Κηφισοφώντος κηδεστής· Ἀπολλόδωρον δὲ οὐκ ἐθέλειν ἀνοίγειν· εἶναι δὲ τὰ<sup>h</sup> ἀντίγραφα τῶν διαθηκῶν τῶν Πασίωνος.]<sup>i</sup>

<sup>h</sup> τὰ Bekker (cf. *Arg.* line 9). τὰδ' (Sauppe). 'Sequedatur enim quod hic deest testimonium Pasionis, cf. § 10 ad fin.' Z.

προῦκαλεῖτο...ἀνοίγειν.] 'Challenged him, (in the event of his denying that the document Phormio put into the box was a copy of Pasion's will,) to open the will of Pasion which &c.' On ἔχινον see note on Or. 54 § 27. εἶναι τὰ ἀντίγραφα κ.τ.λ.] A loosely expressed sentence. τὰ ἀντίγραφα τῶν διαθηκῶν cannot be construed as the subject, and unless we alter τὰ into τὰδε (as the *Argument* has it) or ταῦτ' (as Dobree proposes) we must rather awkwardly get the predicate out of τὰ ἀντίγραφα. The speaker himself expresses the sense better in §§ 10, 23. (Westermann, u. s. p. 108.)

§§ 9—14. It is deposed that Phormio challenged me to open the will, produced (it is alleged) before the arbitrator; that I refused the challenge and would not open the 'will;' that the document to which they depose is a counterpart of the original will; and then follows the copy.

Let us examine this evidence. In the first place, why should one have refused to open the document?

'Oh! to prevent the jury from hearing the terms of the will.'

But, I reply, the witnesses deposed to the will as well as to the challenge, and thus the jury would hear the terms of the 'will' publicly recited from the 'copy' whether I opened it or not. What was I to gain by refusing? Why! even if they had given no challenge, and had made a mere assertion, and if some one had produced a document purporting to be Pasion's will, it would have been my interest to challenge them and to open the will. In this case, (1) had the contents differed from the terms of the deposition, I should have appealed to the bystanders to bear witness to the discrepancy, which would have been a strong proof that the rest of their case was got up for a purpose. (2) Had the contents agreed, I should have required the producer himself to give evidence. Had he consented, I should have had in him a responsible witness; had he declined, here again I should have had proof enough that the affair was a fabrication. On this hypothesis, I should have had to deal with one witness only, instead of with many (as my opponents have made it out); and of course I should

- 9 Ἦκούσατε μὲν τῆς μαρτυρίας, ὧ ἄνδρες δικασταί, νομίζω δ' ὑμᾶς, εἰ καὶ μηδὲν τῶν ἄλλων αἰσθάνεσθέ πω, τοῦτό γε αὐτὸ θαυμάζειν, τὸ τὴν μὲν ἀρχὴν τῆς μαρτυρίας εἶναι πρόκλησιν, τὴν δὲ τελευτὴν διαθήκην. οὐ μὴν ἀλλ' ἔγωγ' οἶμαι δεῖν, ἐπειδὴν, ὃ τῶν μεμαρτυρημένων ὥσπερὶ κεφάλαιόν ἐστιν, ἐπιδείξω ψεύδους ὃν, τηνικαὐτ' ἤδη καὶ περὶ τῶν τοιούτων ποιεῖσθαι
- 10 τοὺς λόγους. ἔστι δὴ μεμαρτυρημένον αὐτοῖς προκαλεῖσθαι Φορμίωνα ἀνοίγειν τὰς διαθήκας, ἃς παρέχειν πρὸς τὸν διαιτητὴν Τισίαν Ἀμφίαν τὸν Κηφισοφώντος κηδεστὴν· ἐμὲ δ' οὐκ ἐθέλειν ἀνοίγειν· εἶναι δὲ ἃς αὐτοὶ μεμαρτυρήκασι διαθήκας, ἀντιγράφους ἐκείνων.
- 11 εἴθ' ἡ διαθήκη γέγραπται. ἐγὼ τοίνυν περὶ μὲν τοῦ προκαλεῖσθαι με ἢ μὴ ταῦτα Φορμίωνα οὐδέν πω

have preferred the former, and so would every one else; for where (as here) there is room for cool calculation, no one would be so foolish as to abandon his own interests and do what would damage his case; and yet, by deposing that I refused to open the 'will,' these witnesses represented me as doing what is improbable, unreasonable, and contrary to all experience.

In brief, the first point which the plaintiff attempts to make in proving the evidence to be false, is that assuming he was challenged to open the 'will,' he sees no reason why he should have refused a challenge which it would have been to his interest to accept. On the other side, it may be noticed that the plaintiff had a strong reason for refusing to open the 'will' and thus give express recognition to an important document, the contents of which as he himself says elsewhere (§ 21) were detrimental to his own interests.

(A. Schaefer, *Dem.* iii. 2. p. 171). So far, the case clearly tends against Apollodorus.

9. οὐ μὴν ἀλλ'...] 'Nevertheless,' 'however,' 'not but that.' The ellipse which this combination of particles always involves may be here supplied by some such words as οὐ μὴν (ὑμᾶς τοῦτο χρὴ θαυμάζειν) or (παράλειπεν τοῦτο χρὴ) ἀλλ' ἔγωγε κ. τ. λ. Kühner's *Gk. Gr.* § 535, 7. τῶν μεμαρτ...κεφάλ.] sc. ἐμὲ οὐκ ἐθέλειν ἀνοίγειν.—τηνικαῦτα sc. in §§ 15—28.

10. ἃς παρέχειν.] sc. μαρτυροῦσι. For the infinitive in the relative clause influenced by the principal verb, cf. Or. 36 § 25.

εἴθ' ἡ διαθήκη γέγραπται.] 'Then follows a copy of the will,' or (with Kennedy) 'and then the will is set out.' 'Deinde sequitur (in testimonio eorum) testamentum exscriptum, sequitur exemplum testamenti.' Seager, *Classical Journ.* ix. p. 267.

11. περὶ...ὑπὲρ.] These prepositions are here, as often, praec-

- λέγω, οὐδὲ ὑπὲρ τοῦ τὰς διαθήκας ἀληθεῖς ἢ ψευδεῖς εἶναι, ἀλλ' αὐτίχ' ὑμᾶς περὶ τούτων διδάξω. ἀλλ' ἃ μεμαρτυρήκασι, μὴ μ' ἐθέλειν τὸ γραμματεῖον ἀνοίγειν. ὥδι δὴ σκοπεῖτε. τοῦ τις ἂν ἔνεκα<sup>1</sup> ἔφευγεν ἀνοίγειν τὸ γραμματεῖον; ἔν' ἡ διαθήκη νῆ Δία μὴ φανερά 1105
- 12 γένοιτο τοῖς δικασταῖς. εἰ μὲν τοίνυν μὴ προσεμαρτύρουν τῇ προκλήσει τὴν διαθήκην οὗτοι, λόγον εἶχέ τι<sup>2</sup> ἂν τὸ φεύγειν ἐμὲ ἀνοίγειν τὸ γραμματεῖον προσμαρτυρούντων δὲ τούτων καὶ τῶν δικαστῶν ὁμοίως ἀκουσομένων, τί ἦν μοι κέρδος τὸ μὴ ἐθέλειν; οὐδὲ ἐν δῆπου. αὐτὸ γὰρ τὸνναντίον, ὧ ἄνδρες Ἀθηναῖοι, καὶ εἰ μὴδὲν προῦκαλοῦντο οὗτοι, λόγῳ δ' ἐχρῶντο
- 13 μόνον, καὶ παρεῖχέ τις αὐτοῖς γραμματεῖον ὡς διαθήκην, ἐμὸν ἦν τὸ προκαλεῖσθαι καὶ ἀνοίγειν<sup>3</sup> ταύτην, ἔν' εἰ μὲν ἀλλ' ἅττα τῶν ὑπὸ τούτων μεμαρτυρημένων

<sup>1</sup> ἐνεκεν Z. ; κελύειν ἀνοίγειν Φ (γρ. in margine). 'recte, opinor; ein, delectam καὶ ante ἀνοίγειν' G. H. Schaefer.

tically synonymous. Cf. *infr.* § 50, and *Fals. Leg.* § 94, p. 371, οὐ περὶ τοῦ εἰ ποιητέον εἰρήνην... ἀλλ' ὑπὲρ τοῦ πόλεον τινά.

τοῦ τις ἂν ἔνεκα ἔφευγεν κ.τ.λ.] 'What reason would any one have had for declining, &c.' 'Malim ἔνεκεν καὶ ἔφευγεν... Latine porro,' says Dobree, who would similarly read in Or. 37 § 27, τίς γὰρ ἔνεκα καὶ ἔπειθον, 'ut in tali re usitatum est dicere.' (Cobet, *Nov. Lect.* 606.)

ἢ Δία.] Or. 36 § 39, and Or. 54 § 34 n.

12. εἰ...μὴ προσεμαρτύρουν.] 'Had they not deposed to the will, as well as to the challenge, I might reasonably have declined to open the document (purporting to be a copy of the will): but, as they actually deposed to both, and as the jury would have to hear the will whether I opened it or not, what

was the use then of my refusing to open it?'

καὶ εἰ.] The ἂν strictly belongs to the apodosis ἐμὸν ἦν, but is here, as often, put as early as possible. Cf. Or. 36 § 42, οἶμαι... καὶ εἰ...λέγοι, κάλλιον εἶναι. Sometimes the construction of the apodosis shews that καὶ εἰ is regarded as much the same as καὶ εἰ, e.g. Plato *Meno* 72 c, καὶ εἰ πολλὰ καὶ παντοδαπαῖ εἰσιν, ἐν γὰρ τι εἶδος ταῦτόν ἐσθαι ἐχουσι. Kühner, *Gk. Gr.* § 398, p. 210. Buttmann calls this "ἂν consopitum," where its force is, as it were, dormant. It is peculiar to the later or middle Attic. § 13. ἔν'—ἐχρῶμην.] Or. 36 § 47, ἔνα—ἐφαίμετο n.

ἅττα ἢ τὰ, i.e. 'had the contents of the alleged will been different from the terms deposed to by these witnesses.' For this



ἦν τὰ κεῖ γεγραμμένα, μάρτυρας εὐθὺς τῶν περισσυστά-  
 κόντων πολλοὺς ποιησάμενος τεκμηρίω τούτῳ καὶ περὶ  
 τῶν ἄλλων, ὡς κατασκευάζουσιν, ἐχρώμην· εἰ δὲ ταύτ'  
 ἐνῆν, τὸν παρασχόντ' αὐτὸν ἡξίουεν μαρτυρεῖν. ἐθε-  
 λήσαντος μὲν γὰρ ὑπεύθυνον ἐλάβανον, εἰ δ' ἔφευγε,  
 πάλιν αὐτὸ τοῦθ' ἱκανὸν τεκμήριον ἦν μοι τοῦ πεπλά-  
 σθαι τὸ πρῶγμα. καὶ δὴ καὶ συνέβαινε ἐκείνως μὲν  
 εἶνα εἶναι, πρὸς δὲ τὰ πρόγματα ἐγίγνετό μοι, ὡς δ'

rather uncommon use of ἄλλος with gen. (like *ἕτερος*, *ἄλλοτριος*, *διάφορος*) cf. Xen. Mem. iv. 4. 25, *πότερον τοὺς θεοὺς ἡγῇ τὰ δίκαια νομοθετεῖν ἢ ἄλλα τῶν δικαίων*. This is one of the non-Demosthenic uses that strike us in this oration.—Dobree suggests *ἀλλ' ἅτα ἀντὶ τῶν*.

*τεκμηρίῳ κ.τ.λ.*] so. *τούτῳ ἐχρώμην τεκμηρίῳ ὡς καὶ τὰλλα κατασκευάζουσι*.—In the next clause *αὐτόν* ('to give evidence himself') is contrasted with the several witnesses, *οἱ περὶ Στέφανου*.

*ἐθελήσαντος μὲν*] i.e. *εἰ μὲν ᾗθέλησε* contrasted with *εἰ δ' ἔφευγε*. We should naturally expect *ἐθελήσαντα*, as the use of gen. absolute, in reference to the same person as the acc. *ὑπεύθυνον*, is somewhat exceptional, the rule being that the gen. absolute is generally found only when there is no other case in the sentence to which the participle might attach itself. Cf. however, Xen. Cyr. i. 4. 2, *ἀσθενήσαντος αὐτοῦ* (sc. *τοῦ πάππου*) *οὐδέποτε ἀπέλιπε τὸν πάππον*. (Kühner, *Gk. Gr.* § 494 b, Madvig, *Gk. Synt.* § 181 R. 6.)

*ὑπεύθυνον*] Liable to a prosecution for *ψευδομαρτυρία*.

*καὶ δὴ καὶ κ.τ.λ.*] Kennedy translates: 'And the result was,

that in that way, I had one person to deal with, doubtless intending by the categorical form of the sentence to shew that in the Greek the conditional is only implied and not directly expressed, in other words *συνέβαινε* (like *ἡξίουεν... ἐλάβανον... ᾗνα*) is put without *ἀν.*—'*Μαλὶν καὶ δὴ καὶ ἂν συνέβαινε εἰ ποτ' ἔστιν οὖν δοτις ἂν ὑμῶν*,' says Dobree, comparing § 33 *dis*, and also proposing in § 34 *τις γὰρ ἂν ἀνθρώπων*. The last two emendations are accepted in Dindorf's text.

[All the imperfects in this remarkable sentence, which does not read altogether like the style of Demosthenes, depend on the preceding *ἔνα*, 'in which case it would have happened that, &c.' The addition of *ἂν* would be quite out of place here, though it is necessary in the clause *ἔστιν οὖν δοτις* [*ἂν*] *ὑμῶν*, which passes into quite a different construction. P.]

*ἐκείνως*] 'In the former case,' lit. 'in that other way,' under the hypothesis just mentioned (as opposed to the *fact* ὡς οὗτοι *μεμαρτυρήκασι*), so. *εἰ τὸν παρασχόντ' ἡξίουεν μαρτυρεῖν*, including the subsequent subdivision of that supposition into the two further hypotheses, *ἐθελήσαντος μὲν κ.τ.λ.* and *εἰ δ' ἔφευγε κ.τ.λ.*

οὔτοι μεμαρτυρήκασι, πρὸς πολλούς. ἔστιν οὖν ὅστις  
 14 ἀν<sup>κ</sup> ὑμῶν ταύθ' εἴλετο; ἐγὼ μὲν οὐδένα ἡγοῦμαι. οὐ  
 τοῖνυν οὐδὲ κατ' ἄλλον πιστεύειν ἐστὲ δίκαιοι. καὶ γὰρ,  
 ὦ ἄνδρες Ἀθηναῖοι, ὅσοις μὲν πρόσεστιν ὀργὴ τῶν  
 πραττομένων ἢ λήμμά τι κέρδους ἢ παροξυσμὸς ἢ φι-  
 λονεικία, ταῦτα μὲν ἄλλος ἂν ἄλλως πράξειε πρὸς τὸν  
 αὐτοῦ τρόπον ὅσοις δὲ τούτων μὲν μηδὲν, λογισμὸς  
 δ' ἐφ' ἡσυχίας τοῦ συμφέροντος, τίς οὕτως ἄφρων  
 ὅστις ἂν τὰ συνοίσοντ'<sup>1</sup> ἀφείς, ἐξ ὧν κάκιον ἔμελλεν  
 ἀγωνιεῖσθαι, ταῦτ' ἔπραξεν; ἂ γὰρ οὐτ' εἰκότα οὐτ' 1106  
 εὐλογα οὐτ' ἂν ἔπραξεν οὐδεὶς, ταύθ' οὔτοι μεμαρτυ-  
 ρήκασι περὶ ἡμῶν.

15 Οὐ τοῖνυν μόνον ἐξ ὧν ἐμέ μὴ ἐθέλειν τὸ γραμμα-

<sup>κ</sup> Bekker (st. Leipsig ed.).

<sup>1</sup> *an deesse vidit Schaeferus* Z.

<sup>1</sup> συνοίσοντα Z.

πρὸς πολλούς.] so. τὰ πράγ-  
 ματα γέγονέ μοι.

14. οὐ...οὐδὲ κατ' ἄλλον πισ-  
 τεύειν.] 'Well then, you cannot  
 fairly believe it of any one *else*  
 either.'

ὅσοις...τῶν πραττομένων.] The  
 participle is best taken not as  
 gen. after ὀργή but after ὅσοις,  
 which is *neuter*. Cf. § 15, ὅσα...  
 τῶν πεπραγμένων. 'In every  
 course of action attended by  
 anger, or by getting of gain, or  
 by any exasperation ('keen re-  
 sement,' 'strong provocation')  
 or by a spirit of jealousy, one  
 man may act in one way,  
 another in another, according  
 to his individual character.'

παροξυσμός.] This word, found  
 twice in the New Testament  
 (Hebr. x. 24, Acts xv. 39), is  
 never used by Demosthenes,  
 nor indeed does it appear to  
 occur elsewhere in the sense of  
 'exasperation' in any of the  
 earlier Greek writers. In the  
 Aphorisms of Hippocrates, 1243

(Liddell & Scott) it is a medical  
 term, in the sense perpetuated  
 in our 'paroxysm.' The verb  
 however is found in Dem. 57 § 49,  
 ἡ πόλις πάσα...ὀργιζομένη παρώ-  
 ξυντο, and *ib.* § 2; also the *adj.*  
 in Or. 20 (Lept.) § 105, λόγοι  
 παροξυντικοὶ πρὸς τὸ...πείσαι.

λογισμός κ.τ.λ.] 'A calm cal-  
 culation of one's interest.' [The  
 phrase seems rather unusual,  
 like ἀφείλ τὰ συνοίσοντα, 'giving  
 up what was likely to prove his  
 interest.' P.]

§§ 15—19. Again, the wit-  
 nesses depose to a Challenge as  
 well as to a Will. Now Chal-  
 lenges are meant to meet the case  
 of those transactions, which it  
 is otherwise impossible to bring  
 before the court. In the present  
 case, what call was there for  
 a Challenge? The arbitration  
 took place in Athens, and they  
 have deposed that the original  
 will was produced before the  
 arbitrator; if this was true,  
 they ought to have put the

τείον ἀνοίγειν μεμαρτυρήκασι, γινώη τις ἂν αὐτοὺς ἔτι  
 ψεύδονται, ἀλλὰ καὶ ἐκ τοῦ πρόκλησιν ὁμοῦ διαθήκη  
 μαρτυρεῖν. οἶμαι γὰρ ἅπαντας ὑμᾶς εἰδέναι ὅτι ὅσα μὴ  
 δυνατὸν πρὸς ὑμᾶς ἀγαγεῖν ἐστὶ τῶν πεπραγμένων,  
 16 τούτων προκλήσεις εὔρέθησαν. οἷον βασανίζειν οὐκ  
 ἔστιν ἐναντίον ὑμῶν ἀνάγκη τούτου πρόκλησιν εἶναι·

original will into the box and the producer should have proved it by evidence, in which case the jury, after weighing the credibility of the deposition and inspecting the seals of the will, would have decided accordingly; and, had I thought myself wronged by the verdict, I might have proceeded against the deponent in question. But, as it is, no single witness has undertaken the whole responsibility; no! they have cleverly divided it, by one witness (Cephisophon) deposing to having a document inscribed 'Pasion's Will'; and another (Amphias), to having produced it after being sent to do so by the former witness; but whether it was genuine or not, was 'more than he knew.'—In fact, Stephanus and his friends have made the Challenge a mere mask under cover of which they might depose to a will, so that the jury were led to believe that the will was my father's, and I myself was debarred from being heard on my wrongs, and so that by these very means my opponents might ultimately be convicted of having given false evidence—a result which they hardly expected.

15. μὴ ἐθέλειν.] ἐθέλω is the proper form in Attic prose, θέλω in Attic verse, but the latter is occasionally found in Dem. in such formulae as ἂν θεὸς θέλῃ. (See Veitch *Gk. Vbs.*) The Paris

ms Σ has θέλειν, which was adopted in Dindorf's earlier editions.

προκλήσεις.] Harpocr. s. v. εἰδότεσαν ὅπῃτε δικάζουσιν τινας, ἐξαιτεῖν ἐνίστην θεραπεύειν ἢ θεραπεύοντας εἰς βάσανον ἢ εἰς μαρτυρίαν τοῦ πράγματος, καὶ τοῦτο ἐκαλεῖτο προκαλεῖσθαι, τὸ δὲ γραμματεῖον τὸ περὶ τούτου γραφόμενον ὠνομάζετο πρόκλησις. παρὰ πολλοῖς δὲ ἐστὶ ρήτορις. Δημοσθένους δ' ἐν τῷ κατὰ Στεφάνου καὶ περὶ ὧν πρόκλησις γίνεται δηλοῖ.

16. βασανίζειν οὐκ ἐστὶν ἐναντίον ὑμῶν.] In Dobree's *Adversaria*, we have the suggestive note 'Qu. interrog. Qu. the fact.' As a general rule doubtless this examination of slaves took place in private, before a magistrate or arbitrator or other authorized person, in the presence of a number of bystanders either concerned as witnesses or merely present out of curiosity (Or. 47 § 12); and the text as it stands would seem to imply that administration of torture in open court was not allowed.—We find Aeschines (*Fals. Leg.* § 126) proposing to 'question' certain slaves in public: ἀγῶμεν δὲ καὶ τοὺς οἰκέτας καὶ παραδιδώμεν εἰς βάσανον...παρέσται δὲ ἡδὴ ὁ δῆμιος καὶ βασανιεῖ ἐναντίον ὑμῶν, ἂν κελεύῃτε...κάλει μοι τοὺς οἰκέτας δεῦρο ἐπὶ τὸ βῆμα... At this point (it is important to notice) follows a Challenge which Demosthenes declines,

οἷον εἴ τι πέπρακται καὶ γέγονεν ἔξω που τῆς χώρας, ἀνάγκη καὶ τούτου πρόκλησιν εἶναι πλεῖν ἢ βαδίζειν οὐ τὸ πρᾶγμ' ἐπράχθη· καὶ τῶν ἄλλων τῶν τοιούτων. ὅπου δ' αὐτὰ τὰ πράγματα ἐφ' αὐτῶν ἔστιν ὑμῖν ἐμφανῆ ποιῆσαι, τί ἦν ἀπλούστερον ἢ ταῦτ' ἄγειν εἰς μέ-  
 17 σον; Ἀθήνησι μὲν τοῖνυν ὁ πατήρ ἐτελεύτησεν οὐμὸς, ἐγένετο δ' ἡ δίατα ἐν τῇ ποικίλῃ στοᾷ, μεμαρτυρή-  
 κασι δ' οὗτοι παρέχειν τὸ γραμματεῖον Ἀμφίαν πρὸς τὸν δαιτητὴν. οὐκοῦν εἶπερ ἀληθὲς ἦν, ἐχρῆν αὐτὸ τὸ

Thus we have a *proposal* only, and it may be concluded from *ἀν κελεύγῃ*, that even if the Challenge had been accepted, the court would have had to give a special order for such departure from ordinary usage.

Again in Or. 47 (Dem.) *κατὰ Ἐδέργου ψευδομαρτυριῶν* § 16, we read: *ἔδει αὐτὸν, εἴπερ ἀληθὴ ἦν ἃ φασιν αὐτὸν προκαλεῖσθαι, κληρομένων τῶν δικαστηρίων κομίσαντα τὴν ἀνθρωπον, λαβόντα τὸν κήρυκα, κελεύειν ἐμὲ, εἰ βουλομένην, βασανίξῃ, καὶ μάρτυρας τοὺς δικαστὰς εἰσιόντας ποιεῖσθαι ὡς ἑτοιμὸς ἐστι παραδοῦναι.* But it would be idle to suppose that this passage proves that the torture might take place in open court; all that is meant is that the defendant might have produced the girl, when the court was about to sit, challenged the plaintiff to 'question' her, and called on the jurors to bear witness that he was ready to hand her over to be tortured in the usual manner and not in public court.

*οἷον—ἔξω τῆς χώρας.*] As an illustration of this form of Challenge, we find in Or. 32 the plaintiff (Zenothemis) borrowing money in Syracuse (§ 4) and the defendant challenging him at Athens to sail to Syracuse

and appear before the authorities there (§ 18). Cf. *ex iure manum consertum voco* in Cicero *pro Murena* § 26 (with Mr Heitland's note).

*πλεῖν ἢ βαδίζειν.*] Here, as often, contrasted with one another, as the ordinary words for 'going by sea or by land,' *Fals. Leg.* § 164. *οὐτ' ἐπείγασθαι βαδίζουσιν οὐτε πλεῖν αὐτοῖς ἐπύχει.*

17. *ποικίλῃ στοᾷ.*] 'The frescoed porch.' So called from its pictures, representing the legendary wars of Athens and the battle of Marathon (Aeschin. *Ctesiph.* § 186). As is well known, it was this portico which gave the name of Stoics to the followers of Zeno of Citium. Persius III. 53 *quaque docti sapiens braccatis illita Medis Porticus.*

The public arbitrators had particular buildings assigned them according to the tribe to which they belonged: thus in Or. 47 § 12 the arbitration takes place in the Heliaeae, *οἱ γὰρ τὴν Οἰνεῖδα καὶ τὴν Ἐρεχθίδα δαιτῶντες ἐνταῦθα κάθηνται.*

*ἐχρῆν.*] As usual, without *ἀν*. We might have had *εἴπερ ἀληθὲς ἦν, ἐνέβαλεν ἀν τὸ γραμματεῖον*, implying *ἀλλ' οὐκ ἐνέβαλεν*, whereas the sentence as it stands

γραμματεῖον εἰς τὸν ἐχίνον ἐμβαλεῖν καὶ τὸν παρέχοντα μαρτυρεῖν, ἵν' ἐκ τῆς ἀληθείας καὶ τοῦ τὰ σημεῖα ἰδεῖν οἱ μὲν δικασταὶ τὸ πρᾶγμα ἔγνωσαν, ἐγὼ δὲ, εἴ τις ἡδί-  
 18 κει με, ἐπὶ τοῦτον ἦα. νῦν δὲ εἰς μὲν οὐδεὶς ὅλον τὸ πρᾶγμα ἀνεδέξατο, οὐδὲ μεμαρτύρηκεν ἀπλῶς, ὡς ἂν τις τὰληθῇ μαρτυρήσειε, μέρος δ' ἕκαστος, ὡς δὴ σοφὸς καὶ διὰ τοῦτο οὐ δώσω δίκην, ὁ μὲν γραμματεῖον ἔχειν ἐφ' ᾧ γεγράφθαι διαθήκη Πασίωνος, ὁ δὲ πεμφθεὶς ὑπὸ τούτου παρέχειν τοῦτο, εἰ δ' ἀληθὲς ἢ ψευ-  
 19 δος, οὐδὲν εἰδέναι. οἷδι δὲ τῇ προκλήσει χρῆσάμενοι 1107 παραπετάσματι διαθήκας ἐμαρτύρησαν, ὡς ἂν μάλισθ'

does not require ἂν because it implies *not* ἀλλ' οὐκ ἐχρήν, which would be absurd, but *χρή μὲν ἐμβαλεῖν ἀλλ' οὐκ ἐνέβαλεν*. So also with *ὠφελον, ἐμελλον, ἔδει, προσήκεν*; 'sed multo latius patet haec ratio... Omnino, ubicunque non potest contrarium opponi, recte abest particula.' Hermann de particula ἂν § xiv. On a similar principle we have *τί ἦν ἀπλούστερον* above, which follows the analogy of *δικαιον ἦν, εἰκὸς ἦν, &c.*

τὰ σημεῖα.] Probably the seals attached to the will (cf. Becker's *Charicles*, Sc. ix. n. 14), and not those on the deposition-case or ἐχίνος (as supposed in Starke's addendato Hermann's *Privatalt.* § 65, 9). On the ἐχίνος cf. Or. 39 § 18, *συσσημασμένων τῶν ἐχίνων*, and note on Or. 54 § 27. For the opening of the seals of a will, see Ar. *Vesp.* 584, *κλέωυ ἡμεῖς μακρὰ τὴν κεφαλὴν εἰπόντες τῇ διαθήκῃ, καὶ τῇ κόγχῃ τῇ πᾶν σεμνῶς τοῖς σημείοισιν ἐπούση*.

ἦα] 'perhaps old Attic, Plat. Theaet. 180, Rep. 449' Veitch *Greek Verbs* s.v. εἶμ. As first person ᾔην is rare, but *προσῆν* is not. In § 6 we have had *ἀπῆεν*.

18. *εἰς...οὐδεὶς*.] 'No single witness has accepted the whole responsibility;' cf. § 38 *διελοντο τὰδίκηματα*. *εἰς οὐδεὶς* is a much stronger negative than *οὐδεὶς*. Or. 21 (Meid.) § 12, *ἐν γὰρ οὐδὲν ἔστιν ἐφ' ᾧ...οὐ δίκαιος ὢν ἀπολωλέναι φανήσεται*. Cf. *Fals. Leg.* § 201, *ἐν οὐδ' ὁτιοῦν*.

ὁ μὲν...ὁ δὲ.] Cephisophon (§§ 21, 22)...Amphias (ὁ Κηφισοφῶντος κηδεστής, § 10).—The subject of *ἕκαστος* (ὁ μὲν...ὁ δὲ) is *μεμαρτύρηκε* implied by the former part of the sentence. This is all that is meant by Dobree's punctuation '*Distingue ὁ δὲ, πεμφθεὶς*' to shew that *πεμφθεὶς* is subordinate to *παρέχειν* and is not to be taken with *ὁ δὲ*. Trans. 'another, that he produced the will on being sent by him (Amphias).'

19. *παραπετάσματι*] sc. *προφάσει*, (Or. 46 § 9 *πρόφασιν...τὴν πρόκλησιν*), *προσχήματι*, as a 'cloak,' or 'pretext,' lit. a 'screen' or 'curtain.' Plat. *Protag.* 316 *ἐταῖς τέχναις ταῦταις παραπετάσμασιν ἐχρήσατο*, immediately after *προσχῆμα ποιῆσθαι καὶ προκαλύπτεσθαι*.

ὡς ἂν μάλισθ' οἱ δικασταὶ... ἐπίστευσαν... ἐγὼ δὲ ἀπεκλεί-

οἱ δικάσταὶ ταύτην τὴν διαθήκην ἐπίστευσαν τοῦ πατρὸς εἶναι, ἐγὼ δὲ ἀπεκλείσθην τοῦ λόγου τυχεῖν ὑπὲρ ὧν ἀδικοῦμαι, οὗτοι δὲ φωραθεῖεν τὰ ψευδῇ μεμαρτυ-

σθην ... οὗτοι δὲ φωραθεῖεν ...]

This sentence, as it stands in the mss., can only mean 'The present witnesses (Stephanus, &c.) used the challenge as a pretext for giving evidence of a will, in the very way in which the court would have believed that the will was my father's, and I should have been debarred from getting a hearing, and in which my opponents would now be palpably convicted of giving false evidence.' This makes nonsense, as the jury in the former trial *did* believe the witnesses, and Apollodorus was debarred from speaking. *ἄν* is quite out of place with ἐπίστευσαν and ἀπεκλείσθην, but not so with φωραθεῖεν (which cannot here be taken as a simple optative expressing a wish). It thus appears that we should (with G. H. Schaefer) remove *ἄν* from the aorist indicative and place it with the aor. optative, and read as follows: ὥς (or ὥσθ') οἱ δικάσταί...ἐπίστευσαν, ἐγὼ δὲ ἀπεκλείσθην...οὗτοι δ' ἂν μάλιστα φωραθεῖεν. The sense thus gained is fairly satisfactory: 'the witnesses combined giving evidence of a challenge with giving evidence of a will (made the former a pretext for the latter). The result was that the jury in the previous trial believed the will was really my father's and therefore decided against me without giving me a hearing on my present wrongs; with the further result that by that very means my opponents would be clearly convicted of having given false

evidence;—a result quite the contrary of what they anticipated.'

Hermann attempts to explain the passage by the following translation:

*'Illi vero, provocationis prae-textu usi, de testamento testati sunt eo modo, quo facillime iudices hoc patris testamentum esse credere, ego autem ab oranda causa mea excludi debebam[?], ipsi vero—falsa testati esse deprehenderentur; atqui contrarium sperabant. Illa enim οὗτοι δέ, (hic voce paullum subsistit orator) φωραθεῖεν τὰ ψευδῇ μεμαρτυρηκότες, ironice dicta esse patet' (Opuscula iv. 27 de particula ἄν i. 7).*

Dobree says: 'Sensus est: ita rem administrarunt, ut tunc quidem iudices deciperent; postea autem hoc palam fieret, quamvis id non praeviderent.—Qu. de modorum permutatione. Similis locus F. Leg. 424. 16' τοσοῦτ' ἀπέχουσι τοῦ τοιοῦτόν τι ποιεῖν, ὥστε θαυμάζουσι καὶ ζηλοῦσι καὶ βούλονται ἂν αὐτὸς ἑκαστός τοιοῦτος εἶναι.

[I suggest ὥς ἂν εἰ μάλιστα, and perhaps οὗτοι γε infra, (though οὗτοι δέ might mean 'yet these' &c.). 'They gave their evidence so, that if the dicasts were ever so much persuaded, and I was stopped from further proceedings then, yet they will be detected in having lied.' ὥς ἂν φωραθεῖεν is a virtual synonym of ὥστε φωραθῆναι. See Aesch. Ag. 357 (366 Dind.) and my note.

For the use of δέ in apodosis, cf. Or. 21 (Mid.) p. 547 § 100, εἰ δέ

ρηκότες. καίτοι τό γ' ἐναντίον ᾤοντο τούτου. ἵνα δ' εἰδῆτε ταῦτα ὅτι ἀληθῆ λέγω, λαβὲ τὴν τοῦ Κηφισοφώντος μαρτυρίαν.

τις πένης μὴδὲν ἡδικοῦς ταῖς ἐσχάταις συμφοραῖς ἀδίκως ὑπὸ τούτου περιπέπτωκε, τοῦτο δ' οὐδὲ συνοργισθήσεσθε; and for ὡς ἂν with optative equivalent to ὥστε, see Plat. Phaedr. p. 230<sup>1</sup> B, καὶ ὡς ἀκμὴν ἔχει τῆς ἀνθης, ὡς ἂν εὐωδέστατον παρέχοι τὸν τόπον, 'see how this willow is in full blossom, so as to fill the place with fragrances!' Symp. p. 187 D, τοῖς μὲν κοσμοῖς τῶν ἀνθρώπων, καὶ ὡς ἂν κοσμώτεροι γίγνοντο οἱ μὴτε ὄντες, δεῖ χαρίζεσθαι. P.]

§§ 19—23. To prove this, take the evidence of Cephisophon. He deposes to a document having been left him by my father, inscribed 'Pasion's Will,' thinking that to depose to this only was a mere trifle, and that he could not safely go so far as to add (what in itself would have been a simple matter) 'that this was the document produced by the deponent.'—Now, had Phormio's name appeared outside, the deponent might reasonably have kept the document for Phormio; further, had it really been endorsed 'Pasion's Will,' it would have belonged to me by inheritance like the rest of my father's property, and I should of course have appropriated it, feeling that, with a lawsuit before me, the will, if its terms were those alleged, would be rather detrimental to my interests. The fact that, in spite of the alleged endorsement, it has been produced to Phormio, not to myself; and been let alone by me, proves the forgery of the will and the falsehood of the deposition of

Cephisophon. However, I dismiss him for the present, especially as he has given no evidence on the contents of the will, which by the way is a strong proof of the falsehood of the deposition of Stephanus and his friends. Cephisophon, the very person who deposes to having the document, did not dare to depose to its identity with that produced by Phormio; and yet the present witnesses (Stephanus and his friends) have declared that it is a copy of the other, though they cannot claim to have been present when the will was drawn up, never saw it opened before the arbitrator, and indeed have deposed that I refused to open it. If so, have they not clearly charged themselves with having given false evidence?

Μαρτυρία.] The wording of this deposition is identical with that of the speech itself (§§ 18 and 20), with the exception of the clause ὑπὸ τοῦ πατρὸς, (naturally suggested by καταλειφθῆναι,) and the description of the witness as Κεφάλωνος Ἀφιδναῖος. Κεφάλων is a parallel form of Κεφάλων and is found elsewhere (Plut. Arat. 52). One Κηφισοφῶν Ἀφιδναῖος is mentioned in inscriptions as trierarch and commander of the fleet, and it has been proposed to identify him with the witness in this case, though the name of the trierarch's father is not given (Boeckh, *Seewesen* p. 442). The composer of the deposition may have been led to assign Cephisophon to Aphidna by a passage in Or. 59 κατὰ Νεαίρας

## ΜΑΡΤΥΡΙΑ.

<sup>m</sup> [Κηφισοφῶν Κεφάλωνος Ἀφιδναῖος μαρτυρεῖ καταλειφθῆναι αὐτῷ ὑπὸ τοῦ πατρὸς γραμματεῖον, ἐφ' ᾧ ἐπυγεγράφθαι διαθήκη Πασίωνος.]<sup>m</sup>

- 20 Οὐκοῦν ἦν ἀπλοῦν, ὃ ἄνδρες δικασταί, τὸν ταῦτα μαρτυροῦντα προσμαρτυρῆσαι “εἶναι δὲ τὸ γραμματεῖον, ὃ αὐτὸς παρέχει, τοῦτο,” καὶ τὸ γραμματεῖον ἐμβαλεῖν. ἀλλὰ τοῦτο μὲν, οἶμαι, τὸ ψεῦδος ἡγεῖτο ὀργῆς ἄξιον, καὶ δίκην ἂν ὑμᾶς παρ' αὐτοῦ λαβεῖν, γραμματεῖον δ' αὐτῷ καταλειφθῆναι μαρτυρῆσαι φαῦλον καὶ οὐδέν. ἔστι δὲ τοῦτ' αὐτὸ τὸ δηλοῦν καὶ κατηγο-
- 21 ροῦν ὅτι πᾶν τὸ πρᾶγμα κατεσκευάσιν. εἰ μὲν γὰρ ἐπὶ τῇ διαθήκῃ “Πασίωνος καὶ Φορμίωνος” ἢ “πρὸς Φορμίωνα” ἢ τοιοῦτό τι, εἰκότως ἂν αὐτὴν ἐτήρει τούτῳ· εἰ δ', ὥσπερ μεμαρτύρηκεν, ἐπὶ “διαθήκῃ “Πασίωνος,” πῶς οὐκ ἂν ἀνηρήμην αὐτὴν ἐγὼ, συνει-

<sup>m</sup> *testimonium om. Σ.*

§§ 9—10, where a person of that name bribes one Stephanus of Erceadæ to charge Apollodorus with causing the death of a woman at Aphidna. (A. Westermann *u.s.* pp. 108—9, cf. § 8 *supra*.)

20. ἐμβαλεῖν] *sc. eis τὸν ἐχθρὸν*, § 17.—ὀργή, the indignation of the court.—ἂν λαβεῖν depends, like the previous clause, on ἡγεῖτο.

γραμματεῖον δὲ.] ‘Whereas to give evidence of a document having been bequeathed to him, was a trifle of no importance.’ Kennedy.

‘Πασίωνος καὶ Φορμίωνος.’] ‘At ineptus Pasion fuisset, si hoc inscripsisset; de utrisque enim, et Phormione et filiis, in eo constitnerat’ (Lortzing *Apoll.* p. 78).—ἐτήρει τούτῳ *sc. Φορμίῳ*. ‘If the inscription had been,

“This belongs to Pasio, and to Phormio,” or “for Phormio,” or anything of that sort, he would reasonably have kept it for him.’

πῶς οὐκ ἂν ἀνηρήμην...] ‘I should of course have appropriated it.’ The plaintiff actually says that if the terms of the will were such as alleged and if it had been really inscribed ‘Pasion’s Will’ (*διαθήκη* is emphatic: ‘had the endorsement been, not merely, ‘This is Pasion’s,’ but ‘This is Pasion’s will,’ &c.’), then he would certainly have claimed it as heir to his father’s property and, finding it detrimental to his own interests, would have kept it close.’ The effrontery of this statement is sufficiently startling.

As regards the phrase *διαθήκην ἀναιρεῖσθαι*, it may be noticed that in Isaëus Or. 6 (Philoct.) §§ 30—



δὼς μὲν ἑμαυτῷ μέλλοντι δικάζεσθαι, συνειδὼς δ' ὑπε-  
 ναντίαν οὔσαν, εἴπερ ἦν τοιαύτη, τοῖς ἑμαυτῷ συμ-  
 φέρουσι, κληρονόμος δὲ ἂν καὶ ταύτης, εἴπερ ἦν τοῦ-  
 22 μου πατρός, καὶ τῶν ἄλλων πατρῶων ὁμοίως; οὐκοῦν  
 τῷ παρέχεσθαι μὲν Φορμίῳ, γεγράφθαι δὲ Πασίω-  
 νος, εἰᾶσθαι δ' ὑφ' ἡμῶν, ἐξελέγχεται κατεσκευασμένη 1108  
 μὲν ἡ διαθήκη, ψευδῆς δ' ἡ τοῦ Κηφισοφώντος μαρ-  
 τυρία. ἀλλ' ἐῷ Κηφισοφώντα· οὔτε γὰρ νῦν μοι πρὸς  
 ἐκεῖνον ἐστὶν οὔτ' ἐμαρτύρησεν ἐκείνος περὶ τῶν ἐν  
 23 ταῖς διαθήκαις ἐνόντων οὐδέν. καίτοι καὶ τοῦτο σκο-  
 πεῖτε, ὅσον ἐστὶ τεκμήριον, ὧ ἄνδρες Ἀθηναῖοι, τοῦ  
 τούτους τὰ ψευδῆ μεμαρτυρηκέναι. εἰ γὰρ ὁ μὲν αὐτὸς  
 ἔχειν τὸ γραμματεῖον μαρτυρῶν οὐκ ἐτόλμησεν ἀντί-  
 γραφα εἶναι ἃ παρείχετο Φορμίῳ τῶν παρ' αὐτῷ  
 μαρτυρῆσαι, οὔτοι δὲ οὔτε ἐξ ἀρχῆς ὡς παρήσαν ἔχοιεν  
 ἂν εἰπεῖν οὔτε ἀνοιχθὲν εἶδον πρὸς τῷ διαιτητῇ τὸ  
 γραμματεῖον, ἀλλὰ καὶ μεμαρτυρήκασιν αὐτοὶ μὴ ἐθέ-  
 λειν ἐμὲ ἀνοίγειν, ταῦτα ὡς ἀντίγραφά ἐστιν ἐκείνων

33, we have πείθουσι τὸν Εὐκτῆ-  
 μονα τὴν διαθήκην ἀνελεῖν ὡς πρὸ  
 χρησίμην οὔσαν τοῖς παισὶ· fol-  
 lowed by ὁ Εὐκτῆμων εἶπεν ὅτι  
 βούλουσι ἀνελεῖσθαι τὴν διαθήκην  
 and ποιησάμενος πολλοὺς μάρτυρας  
 ὡς οὐκέτι αὐτῷ κέαιτο ἡ διαθήκη,  
 ὥςχετο ἀπὸ τῶν. Cf. also Isaеus  
 Or. 1 (Cleonym.) § 14, ἀσθενῶν...  
 ἐβουλήθη ταύτας τὰς διαθήκας  
 ἀνελεῖν, where Schömann re-  
 marks 'ἀναιρεῖν est λύειν tollere,  
 rescindere: ἀναιρεῖσθαι autem,  
 de contractuum, testamentorum-  
 que tabulis, proprie est repetere  
 ab eo, apud quem depositae  
 fuerunt, quod fit a sublaturō.' In  
 these passages, however, the  
 phrase is used of a testator re-  
 voking his own will; here of an  
 heir claiming his father's will,  
 with a view to suppressing it.

Cf. note on Or. 34 § 31.

22. τῷ παρέχεσθαι Φορμίῳ.]  
 'By its being produced, not by,  
 but to Phormio.'—εἰᾶσθαι δ' 'and  
 yet let alone, (not made away  
 with,) by myself.' (See last note.)  
 The pf. pass. εἰᾶσθαι is appa-  
 rently never used elsewhere.

23. αὐτὸς ἔχειν.] 'That he  
 had the document in his own  
 keeping.'

ἐξ ἀρχῆς ὡς παρήσαν.] 'Were  
 present in the first instance'  
 as witnesses when Pasion made  
 his will. But it may be re-  
 marked that even supposing  
 they were so present, it does  
 not follow that they would know  
 the contents of the document.  
 (See note on Or. 46 § 2 and  
 Becker's Charicles, Sc. ix. note  
 18.)

μεμαρτυρηκότες, τί ἄλλο ἢ σφῶν αὐτῶν κατήγοροι γε-  
γόνασιν ὅτι ψεύδονται;

- 24 Ἐτι τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, ὡς γέγραπται  
τις ἂν ἐξετάσας τὴν μαρτυρίαν γνῶιη παντελῶς τοῦτο  
μεμηχανημένους αὐτοὺς, ὅπως δικαίως καὶ ἀδίκως δό-  
ξει ταῦτα ὁ πατὴρ οὐμὸς διαθέσθαι. λαβὲ δ' αὐτὴν τὴν  
μαρτυρίαν, καὶ λέγ' ἐπισχὼν οὐ ἂν σε κελεύω, ἢ ἐξ  
αὐτῆς δεικνύω.

### ΜΑΡΤΥΡΙΑΙ.

[Μαρτυροῦσι παρῆναι πρὸς τῷ διαιτητῇ Τισία,  
ὅτε προῦκαλεῖτο Φορμίων Ἀπολλόδωρον, εἰ μὴ φησιν  
ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος.]

- 25 Ἐπίσχες. ἐνθυμεῖσθε ὅτι τῶν διαθηκῶν γέγραπ-  
ται τῶν Πασίωνος. καίτοι χρῆν τοὺς βουλομένους  
τῆς ἀληθείας μαρτυρεῖν, εἰ τὰ μάλιστα ἐγίγνετο ἡ πρόκλη-  
σις, ὡς οὐκ ἐγίγνετο, ἐκείνως μαρτυρεῖν. λέγε τὴν  
μαρτυρίαν ἀπ' ἀρχῆς πάλιν.

### ΜΑΡΤΥΡΙΑ.

1109

Μαρτυροῦσι παρῆναι πρὸς τῷ διαιτητῇ Τισία.  
Μαρτυροῦμεν· παρῆμεν γὰρ δὴ. λέγε.  
ὅτε προῦκαλεῖτο Φορμίων Ἀπολλόδωρον.

§§ 24—26. *Let us now examine the terms of the deposition and we shall see that its object is to make it appear by any means, fair or foul, that my father made this will. It speaks of 'the will of Pasion'; whereas it ought to have run 'the will which Phormio asserts to have been left by Pasion'; and you are aware that there is a vast difference between a thing being really true and Phormio's saying so.*

24. ὡς γέγραπται κ.τ.λ.] i.e. εἰ τις ἐξετάσειεν ὡς γέγραπται ἡ

μαρτυρία, γνῶιη κ.τ.λ.

δικαίως καὶ ἀδίκως δόξει.] 'That rightly or wrongly it may appear that my father made this will.' A singular expression, the adverbs belonging to δόξει and not to διαθέσθαι.

25. εἰ τὰ μάλιστα.] 'If it were ever so true that the challenge took place, which I utterly deny.'—ἐκείνως, 'in a form which I am about to shew,' viz. in § 26 τῶν διαθηκῶν (not τῶν Πασίωνος) but ὡς φησι Φορμίων Πασίωνα καταλιπεῖν.

Καὶ τοῦτο, εἶπερ προῦκαλεῖτο, ὁρθῶς ἂν ἐμαρτύρουν.  
εἰ μή φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν  
Πασίωνος.

- 26 Ἐχε αὐτοῦ. οὐδ' ἂν εἰς ἔτι δήπου τοῦτ' ἐμαρτύρησεν, εἰ μή τις καὶ παρὴν διατιθεμένῳ τῷ πατρὶ τῷ ἐμῷ· ἀλλ' εὐθὺς ἂν εἶπε "τί δ' ἡμεῖς ἴσμεν, εἴ τινές "εἰσι διαθήκαι Πασίωνος;" καὶ γράφειν ἂν αὐτὸν ἠξίωσεν, ὥσπερ ἐν ἀρχῇ τῆς προκλήσεως, "εἰ μή· "φημ' ἐγὼ ἀντίγραφα εἶναι τῶν διαθηκῶν, ὧν φησι "Φορμίων Πασίωνα καταλιπεῖν," οὐ "τῶν Πασίωνος." τοῦτο μὲν γὰρ ἦν εἶναι διαθήκας μαρτυρεῖν ὅπερ ἦν τούτοις βούλημα, ἐκεῖνο δὲ φάσκειν Φορμίωνα· πλείστον δὲ δήπου κεχώρισται τό τ' εἶναι καὶ τὸ τοῦτον φάσκειν.

- 27 Ἵνα τοίνυν εἰδῇτε ὑπὲρ ἡλικίων καὶ ὅσων ἦν τὸ κατασκευάσμα τὸ τῆς διαθήκης, μικρὰ ἀκούσατέ μου. ἦν γὰρ, ὦ ἄνδρες Ἀθηναῖοι, τοῦτο πρῶτον μὲν ὑπὲρ τοῦ μὴ δοῦναι δίκην ὧν διεφθάρκει ἦν ἐμοὶ μὲν οὐ

26. εἴ τινές εἰσι.] 'if there is any will of Pasion's at all.'

ὥσπερ ἐν ἀρχῇ τῆς προκλήσεως.] ὥσπερ should perhaps be struck out.

φάσκειν] (sc. εἶναι διαθήκας.) Here, as often, used with the collateral notion of saying what is untrue. Thus both φημι and φάσκω are used in Soph. El. 319 of promising without performing: φησὶν γε φάσκω δ' οὐδὲν ὧν λέγει ποιεῖ. [For the whole sentence, cf. Eur. Alc. 528 χωρὶς τὸ τ' εἶναι καὶ τὸ μὴ νομίζεσθαι.]

§§ 27, 28.] An examination of the terms of the 'Will' proves that Phormio had important motives for forging it, viz. (1) to escape the penalty for seducing one who shall be nameless, (2) to secure all my father's money that was in my mother's

hands; and (3) to obtain control over all the rest of the family property.

27. κατασκευάσμα.] The 'fabrication,' 'forgery,' of the will. Cf. κατασκευάζειν in §§ 13 and 20.

ὧν διεφθάρκει ἦν...] 'To escape the penalty of having corrupted her whose name I cannot here mention without impropriety, but whom you yourselves know without my naming her.' (For this 'delicacy of allusion,' cf. note on § 3.)—ὧν διεφθάρκει ἦν is equivalent to τῆς διαφθορᾶς τῆς γυναικὸς ἦν (or τοῦ διεφθαρκέναι ταύτην ἦν). The substantive is here 'thrown into' the verb as in Fals. Leg. § 238 p. 415 ἐν αὐτοῖς οἷς ἐτιμᾶσθε, 'in the very honours you enjoyed,' where Shilleto quotes de corona § 312

καλὸν λέγειν, ὑμεῖς δ' ἴστε, καὶ ἐγὼ μὴ λέγω, ἔπειθ' ὑπὲρ τοῦ κατασχεῖν ὅσα ἦν τῷ ἡμετέρῳ πατρὶ χρήματα παρὰ τῇ μητρὶ, πρὸς δὲ τούτοις ὑπὲρ τοῦ καὶ τῶν ἄλλων τῶν ἡμετέρων ἀπάντων κυρίῳ γενέσθαι. ὅτι δ' οὕτω ταῦτ' ἔχει, τῆς διαθήκης αὐτῆς ἀκούσαντες γνώσεσθε· φανήσεται γὰρ οὐ πατρὸς ὑπὲρ<sup>α</sup> νείων γράφοντος εἰκυνία διαθήκη, ἀλλὰ δούλου λελυμασμένου τὰ  
 28 τῶν δεσποτῶν, ὅπως μὴ δώσει δίκην σκοποῦντος. λέγε 1110  
 δ' αὐτοῖς τὴν διαθήκην αὐτὴν, ἣν οὗτοι μετὰ τῆς προκλήσεως μεμαρτυρήκασιν ὑμεῖς δ' ἐνθυμείσθε ἃ λέγω.

## ΔΙΑΘΗΚΗ.

°[Τάδε διέθετο Πασίων Ἀχαρνεῖς· δίδωμι τὴν ἑμῶν τοῦ γυναικα Ἀρχίππην Φορμίωνι, καὶ προῖκα ἐπιδίδωμι Ἀρχίππῃ τάλαντον μὲν τὸ ἐκ Πεπαρήθου,

<sup>α</sup> ὥσπερ Ζ cum libris. ὡς περὶ Σ in margine. περὶ G. H. Schaefer. ὑπὲρ Bekk. et Dindf. cum H. Wolf.

<sup>ο</sup> om. Σ.

ἐφ' οἷς ἐλυμήνω and a striking instance from Plato, *Phaedo* p. 94 c. We may add *Meid.* § 189 p. 576 ἐφ' οἷς ἐλειτούργουν ὑβρίξειν and *Ar. Ach.* 677, οὐ γὰρ ἀξίως ἐκείνων ὧν ἐνανμαχόμεν γηροβοσκούμεσθ' ὑφ' ἑμῶν. Cf. *Or.* 55 § 32.

ὑπὲρ τοῦ κατασχεῖν.] 'for the purpose of securing.' So inf. § 47 ὅπως τὴν ἀφορμὴν τῆς τραπεζῆς κατέσχοι.

κυρίῳ γενέσθαι.] The dative is used as though the sentence had begun with ἡ διαθήκη κατεσκεύαστο Φορμίωνι instead of with its equivalent in sense ἦν τὸ κατασκεύασμα τὸ τῆς διαθήκης. The regular construction would of course require κύριον (proposed by Lambinus and approved by G. H. Schaefer).

λελυμασμένον.] Also a dependent perfect in *Or.* 19 § 105

and *Or.* 21 § 173 (ἐλυμάνται). The inf. is found as pass. in *Or.* 20 § 142.—The sense is:—'a slave who is thinking how to escape punishment for having wronged, dishonoured, his master's household, damaged his master's property.' τὰ τῶν δεσποτῶν refers to his master's wife [but is expressed purposely in a general way. *Aeschylus* however uses γυναικὸς λυμαντήριος in this sense, *Ag.* 1413 and *Cho.* 751. P.]

διαθήκην μετὰ τῆς προκλήσεως.] § 12 προσεμαρτύρουν τῇ προκλήσει τὴν διαθήκην and § 15 πρόκλησιν ὁμοῦ διαθήκην μαρτυρεῖν. The mss have πρὸ, which is altered by Reiske into μετὰ and by Dobree into διὰ (cf. § 31 τὴν μίσθωσιν ἦν τὸν αὐτὸν τρόπον διὰ προκλήσεως ἐνέβαλοντο).

τὸ ἐκ Πεπαρήθου...τὸ αὐτόθεν.]

τάλαντον δὲ τὸ αὐτόθεν, συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ τὰ χρυσία καὶ τὰλλ' ὅσα ἐστὶν αὐτῇ ἔνδον. ἅπαντα ταῦτα Ἀρχίππῃ δίδωμι.]°

Ἦκούσατε, ὦ ἄνδρες Ἀθηναῖοι, τὸ πλήθος τῆς προικὸς, τάλαντον ἐκ Πεπαρήθου, τάλαντον αὐτόθεν, συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ χρυσία, καὶ τὰλλα, φησὶν, ὅσα ἐστὶν αὐτῇ, δίδωμι, τούτῳ τῷ γράμματι καὶ τοῦ ζητῆσαί τι τῶν καταλειφθέντων ἀποκλείων ἡμᾶς.

- 29 Φέρε δὴ δείξω τὴν μίσθωσιν ὑμῖν καθ' ἣν ἐμεμίσθωτο τὴν τράπεζαν παρὰ τοῦ πατρὸς οὗτος. καὶ γὰρ ἐκ ταύτης, καίπερ ἐσκευωρημένης, ὄψεσθε ὅτι πλάσμα ὅλον ἐστὶν ἢ διαθήκη. δείξω δ' ἣν οὗτος παρέσχετο

'Malim τῶν.....τῶν.' Dobree.

Sums in gross, charged on land, are meant (as Pabst and Kennedy understand it); not annual rents (as G. H. Schaefler supposes).—On *συνοικίαν* see notes on Or. 36 §§ 6 and 34.

καὶ τοῦ ζητῆσαι...ἀποκλείων.] See on Or. 40 § 15 ἐὰν τι οὗτοι τῶν πατρῶν ἐπιζητώσι.

§§ 29—36. Again, the 'lease' upon which Phormio took the bank from my father, though itself a fabrication, will prove the 'Will' an utter forgery.

It concludes with a clause stating that my father owes eleven talents to the bank. This was added in order that whatever sums were traced to Phormio, might be made out to have been 'paid' in discharge of this debt, and not embezzled.—(You imagine perhaps that, as Phormio speaks bad Greek, he is merely a foreigner and a fool. To be sure, he is anything but a good Greek in hating those he ought to honour, but in villany

and knavery he is far from a fool.)

The terms of the 'lease' shall now be read and examined.

(1) No one would have paid so large a rent, as that alleged, for the banking business.

(2) No one would have committed the rest of his property to a man under whose management the Bank got into debt.

(3) The stringency of the proviso preventing Phormio from doing business as a banker on his own account is inconsistent with the singularly generous terms of the will and proves the latter to be a forgery.

29. τὴν μίσθωσιν κ.τ.λ.] See Or. 36 §§ 4—6.—καὶ γὰρ ἐκ ταύτης, 'for from this too,' &c. [The clause καίπερ ἐσκευωρημένης reads unlike the style of Demosthenes. P.]

πλάσμα.] Cf. πλάκα in line 10 of *Argument*, and Or. 36 § 33. Hesychius has πλάσμα· σχηματισμός (late Greek 'pretence'). ψεύσμα. ἢ κτίσμα.

μίσθωσιν, οὐκ ἄλλην τινὰ, ἐν ᾗ προσγέγραπται ἔνδεκα  
τάλαντα ὁ πατήρ ὀφείλων εἰς τὰς παρακαταθήκας  
30 τούτῳ. ἔστι δ', οἶμαι, ταῦτα τοιαῦτα. τῶν μὲν οἴκοι  
χρημάτων ὡς ἐπὶ τῇ μητρὶ δοθέντων διὰ τῆς δια-  
θήκης αὐτὸν ἐποίησε κύριον, ὥσπερ ἀκηκόατε ἄρτι,  
τῶν δ' ἐπὶ τῆς τραπέζης ὄντων, ἃ πάντες ᾗδεσαν καὶ  
λαθεῖν οὐκ ἦν, διὰ τοῦ προσοφείλοντα ἀποφῆναι τὸν  
πατέρα ἡμῶν, ἵν', ὅσα ἐξελέγχωτο ἔχων, κεκομίσθαι  
φαίη. ἡμεῖς δ' ἴσως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει  
τῇ φωνῇ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι. ἔστι 1111

ἔνδεκα ταλ.] The origin of this 'debt' is carefully explained in Or. 36 §§ 4—5 (see note on προσώφειλε p. 6), and in the present speech, the plaintiff says nothing that materially shakes that explanation. [The construction is, ὀφείλων τούτῳ εἰς τὰς π., 'owing Phormio eleven talents on the deposits,' or 'for the deposits' which he had put out to interest. Kennedy translates, 'upon the deposits to Phormio.' See § 81 fin. P.]

30. ὡς ἐπὶ τῇ μητρὶ δοθέντων.] 'As my mother's dowry. Or. 40, περὶ προικὸς, § 6, ἐκδόντος αὐτὴν... καὶ προῖκα τάλαντον ἐπιδόντος.

πάντες ᾗδεσαν κ.τ.λ.] This must be taken as a rhetorical exaggeration. All that the speaker probably means is that as Phormio was only the lessee, not the owner of the bank, he could be called upon by Apollodorus, the lessor after Pasion's death, to give an account of all the moneys held by the bank. As a contrast we have in § 66 ἐργασίας ἀφανεῖς διὰ τῆς τραπέζης ποιῆται.

κεκομίσθαι.] In middle sense. Or. 41 § 11 οὐκ ἀνεγνήχασιν κεκομισμένοι (τὴν φιλίην). Or.

56 (Dionysod.) § 3 δέον δ' αὐτὸν ἐν τῇ πέρυσιν ὥρᾳ κεκομίσθαι τὰ χρήματα. Trans. 'that whatever sums he might be proved to possess, he might pretend he had recovered in the way of debts.'

σολοικίζει τῇ φωνῇ, βάρβαρον.] (See note on Or. 36 § 1 τὴν ἀπειρίαν τοῦ λέγειν.) σόλοικος is a word of narrower meaning than βάρβαρος and is applied mainly to faults of pronunciation or mistakes in Grammar, especially Syntax, due to foreign extraction; while βάρβαρος, though originally referring to language (as an onomatopoeetic word connected with the Sanskrit *varvara* 'a jabberer') and at first describing the incoherent jargon, as the Greeks considered it, of all languages but their own, gradually attained a wider signification and embraced all that was non-Hellenic in the customs, the politics, the laws, and the moral and intellectual characteristics of foreign nations. (Cf. Isocr. Paneg. § 3 n.)

Hesychius (possibly with the present passage in view) has the gloss σολοικίζει βαρβαρίζει, and Aristotle (περὶ σοφιστικῶν ἐλέγχων § 3) explains σολοικίζω.

- δὲ βάρβαρος οὗτος τῷ μισεῖν οὓς αὐτῷ προσήκε  
τιμᾶν τῷ δὲ κακουργῆσαι καὶ διορύξαι πράγματα  
31 οὐδενὸς λείπεται. λαβὲ δὴ τὴν μίσθωσιν, καὶ λέγε, ἦν  
τὸν αὐτὸν τρόπον διὰ προκλήσεως ἐνεβάλλοντο.

### ΜΙΣΘΩΣΙΣ ΤΡΑΠΕΖΗΣ.

- ῥ[Κατὰ τὰδε ἐμίσθωσε Πασίων τὴν τράπεζαν  
Φορμίωνι· μίσθωσιν φέρειν Φορμίωνα τῆς τραπέζης  
τοῖς παισὶ τοῖς Πασίωνος δύο τάλαντα καὶ τετταρα-  
κοντα μνᾶς τοῦ ἐνιαυτοῦ ἐκάστου, χωρὶς τῆς καθ'  
ἡμέραν διοικήσεως· μὴ ἐξεῖναι δὲ τραπεζιτεῦσαι χωρὶς  
Φορμίωνι, ἐὰν μὴ πείσῃ τοὺς παῖδας τοὺς Πασίωνος.  
ὁφείλει δὲ Πασίων ἐπὶ τὴν τράπεζαν ἑνδεκα τάλαντα  
εἰς τὰς παρακαταθήκας.]ῥ  
32 Ἄς μὲν τοίνυν παρέσχετο συνθήκας ὡς κατὰ ταί-  
τας μισθωσάμενος τὴν τράπεζαν, αὐταὶ εἰσιν, ᾧ ἄνδρες  
δικασταί. ἀκούετε δ' ἐν ταύταις ἀναγνυνωσκομέναις  
μίσθωσιν μὲν φέρειν τοῦτον, ἄνευ τῆς καθ' ἡμέραν  
διοικήσεως, δύο τάλαντα καὶ τετταράκοντα μνᾶς τοῦ

ῥ om. Z.

by τῇ λέξει βαρβαρίζειν and (in § 14) illustrates it by instances from the rules of *gender*. The distinction drawn between βαρβαρισμός and σολοικισμός by Zeno and the Stoics, and accepted by the writers on Rhetoric, is perhaps best expressed by Quintilian: 'vitium quod fit in singulis verbis, sit barbarismus ... cetera vitia omnia ex pluribus vocibus aunt, quorum est eulocismus' (i. 5, 6 and 34).

βάρβαρον καὶ εὐκαταφρόνητον.] Ar. Nubes 492 ἀμαθής... καὶ βάρβαρος.

διορύξαι πράγματα.] Lit. 'to undermine,' 'to ruin,' [here, perhaps, 'to be a rogue in business']. A metaphor from house-

breaking. Or. 9 § 28 κακῶς διακεῖμεθα καὶ διορωνόμεθα κατὰ πόλεις. Or. 35 (Lacr.) § 9 οἷα ἐτοιχωρύχθησαν οὗτοι περὶ τὸ δάνειον, and Philostratus 552 (quoted by Liddell & Scott) τοιχωρυχεῖν τοὺς λόγους τινός.

31. διὰ προκλήσεως.] 'by means of,' i. e. 'under cover of,' —'using the Challenge as a cat's paw.' Cf. Fals. Leg. § 291, ἐκρίνε Φιλόνηκον καὶ δι' ἐκείνου τῶν σοὶ πεπραγμένων κατηγορεῖ, where Shilleto quotes the present passage.

32. τῆς καθ' ἡμέραν διοικήσεως.] 'The daily expenditure' involved in managing the bank, paying under-clerks, &c.

ἐνιαυτοῦ ἐκάστου, μὴ ἐξεῖναι δὲ τραπεζίτευσιν αὐτῷ, εἰ μὴ ἡμᾶς πείσῃ. προσγέγραπται δὲ τελευταῖον “ὀφείλει δὲ Πασίων ἔνδεκα τάλαντα εἰς τὰς παρα-  
 33 “καταθήκας.” ἔστιν οὖν ὅστις ἂν τοῦ ξύλου καὶ τοῦ χωρίου καὶ τῶν γραμματείων τοσαύτην ὑπέμεινε φέρειν μίσθωσιν; ἔστι δ’ ὅστις ἂν, δι’ ὃν ὀφειλήκει τοσαῦτα χρήματα ἢ τράπεζα, τούτῳ τὰ λοιπὰ ἐπέτρεψεν; εἰ γὰρ ἐνεδέησε τοσοῦτων χρημάτων, τούτου διοικούντος ἐνεδέησεν. ἴστε γὰρ πάντες, καὶ οἱ ἦν ὁ πατήρ ἐπὶ τοῦ τραπεζίτευσιν, τούτου καθήμενον καὶ διοικούντα ἐπὶ τῇ τραπεζῇ, ὥστε ἐν τῷ μυλῶνι<sup>α</sup> προσ-  
 ὀφείλει Bekker (Berlin ed.) et Dind. μυλῶνι Z et Bekker (Leipsig ed.).

33. ξύλου...χωρίου...γραμματείων.] The bench (desk or counter)...the site (in the market-place)...the banking-books (ledgers, &c.).

ὀφειλήκει ἢ τράπεζα.] Phormio's account is that Pasion owed 11 talents to the bank; whereas Apollodorus unfairly, as it seems, treating this sum as a deficit though it stood in Pasion's hands to the credit of the bank, denounces Phormio for having caused the bank to get into debt. [Apollodorus wishes to throw a doubt on Phormio's ever having had a lease at all on the terms now brought forward. He says he would have been a fool to pay so much for a business that was encumbered if not insolvent; and Pasion would have been equally foolish if he had let the bank to one who had managed it so badly as Phormio. P.]

εἰ γὰρ κ.τ.λ.] A sophistical argument to bear out the previous clause δι’ ὃν ὀφειλήκει ἢ τράπεζα. It is quite true that ἢ τράπεζα ἐνεδέησε χρημάτων, but then the 11 talents in question were held by Pasion on the

security of land and were part of the assets of the business.—

Ὁ προκαθήμενος κ.τ.λ. Or. 36 § 7, v.

ἐν τῷ μυλῶνι.] So far from being made master of the rest of the household, Phormio ought to have been punished, as a slave, with hard-labour at the mill, for bad management. For the mill, as a common part of slaves' labour, cf. the *Phormio* of Terence, ii. 1. 18 ‘*herus si redierit, Molendum usque in pistrino, vapulandum, habendae compedes.*’ In Lysias Or. i. § 18 a master threatens his *θεράπων* with the punishment *μαστιγωθεῖσιν εἰς μυλῶνα ἐμπεσεῖν*, and Dinarclus, *contr. Dem.* § 23, says that Memnon the miller was condemned to death for making a freeborn boy work in his mill. Cf. Eur. *Cycl.* 240 *εἰς μυλῶνα καταβαλεῖν*, and Pollux, *ἅνα κολάζονται οἱ δοῦλοι, μυλῶνες κ.τ.λ.* (K. P. Hermann, *Privatalt.* § 24, 9.) The parallel of Samson, ‘eyeless in Gaza at the mill with slaves,’ will occur to every reader (*Judges* xvi. 21, *Milton Samson Agonistes* 41, &c.). —μύλων, ‘a false form.’ Chandler, *Gk. Acc.* § 638.



ἵκεν αὐτὸν εἶναι μᾶλλον ἢ τῶν λοιπῶν κύριον γεν-  
 34 ἐσθαι. ἀλλ' ἐὼ ταῦτα καὶ τᾶλλ' ὅσ' ἂν περὶ τῶν ΙΙΙ 12  
 ἑνδεκα ταλάντων ἔχοιμι εἰπεῖν, ὡς οὐκ ὤφειλεν ὁ πα-  
 τήρ, ἀλλ' οὗτος ὑφῆρηται. ἀλλ' οὐ ἀνέγνω ἕνεκα,<sup>1</sup>  
 τοῦ τὴν διαθήκην ψευδῇ δεῖξαι, τοῦθ' ἡμᾶς ἀναμνήσω.  
 γέγραπται γὰρ αὐτόθι, μὴ ἐξεῖναι δὲ τραπεζίτειον  
 Φορμίωνι, ἐὰν μὴ ἡμᾶς πείσῃ. τοῦτο τοίνυν τὸ γράμμα  
 παντελῶς δηλοῖ ψευδῇ τὴν διαθήκην οὖσαν. τίς γὰρ  
 ἂν<sup>2</sup> ἀνθρώπων, ἃ μὲν ἔμελλε<sup>3</sup> τραπεζίτειον οὗτος ἐρ-  
 γάζεσθαι<sup>4</sup>, ταῦθ' ὅπως ἡμῖν τοῖς αὐτοῦ παισίν, ἀλλὰ  
 μὴ τούτῳ γενήσεται προϋνοήθη, καὶ διὰ τοῦτο μὴ  
 ἐξεῖναι τούτῳ τραπεζίτειον ἔγραψεν, ἵνα μὴ ἀφί-  
 35 στήται ἀφ' ἡμῶν· ἃ δ' αὐτὸς εἰργασμένος ἔνδον κατ-  
 35 ἐλεῖπε, ταῦθ' ὅπως οὗτος λήψεται παρεσκεύασεν; καὶ

<sup>1</sup> *εἵνεκα* Z.<sup>2</sup> *ἂν* G. H. Schaefer.*om. Bekker et Z cum libris.*<sup>3</sup> *ἔμελλε* Z. (See note on Isocr. Paneg. § 83.)<sup>4</sup> *Bekker. om. Z cum Z.*

34. ἐὼ ταῦτα κ.τ.λ.] The speaker, it will be observed, makes no attempt to meet fairly the statement made on the opposite side, accounting for the 11 talents not being actually in the bank. (Or. 36 §§ 4—6).

[ὑφῆρηται. Phormio, he says, has filched, or secretly withdrawn, eleven talents from the bank, which he now pretends Pasion and Pasion's heirs were bound to repay. P.]

μὴ τραπεζίτειον.] The object of this clause appears to have been to prevent Phormio's doing business on his own account, apart from the profits made on the bank. The plaintiff seems rather unfairly to suggest that Phormio was allowed to make no profit whatever out of the lease.

τίς γὰρ ἂν κ.τ.λ.] 'Is there any man, I ask, who, after

taking precautions to ensure his own children receiving the profits of a lessee's management of the bank, by preventing him from doing business on his own behalf, nevertheless actually provided for that lessee's appropriating the profits he had himself laid by in his lifetime and left behind him on his death?' [The two things, he says, are inconsistent. If Phormio must bank only in the interest and for the benefit of Pasion's family, it was not likely that he would have had so much money left him by Pasion; i. e. he must have got it unfairly. The sentence is artificially constructed, and is one of those sometimes called 'bimembered,' where each clause is antithetical to the other, as here προϋνοήθη ὅπως τὸ παρεσκεύασεν ὅπως. P.]

τῆς μὲν ἐργασίας ἐφθόνησεν, ἥς οὐδὲν αἰσχροὺν ἦν μεταδοῦναι· τὴν δὲ γυναῖκα ἔδωκεν, οὐ μείζον οὐδὲν ἂν κατέλειπεν· οὐκ οἶδός; τυχὼν γε τῆς παρ' ὑμῶν δωρεᾶς, εἴτα ὥσπερ ἂν δοῦλος δεσπότη διδούς, ἀλλ' οὐ τούναντιον, εἴπερ ἐδίδου, δεσπότης οἰκέτῃ, προστιθεὶς προῖκα 36 ὅσῃν οὐδεὶς τῶν ἐν τῇ πόλει φαίνεται. καίτοι τούτῳ μὲν αὐτὸ τοῦτο ἀγαπητὸν ἦν, τὸ τῆς δεσποίνης ἀξιοθῆναι· τῷ πατρὶ δὲ οὐδὲ λαμβάνοντι<sup>2</sup> τοσαῦτα χρήματα, ὅσα φασὶ διδόντα οὔτοι, εὐλογον ἦν πράξαι

<sup>1</sup> Bekker. κατέλειπεν Z cum Σ.

<sup>2</sup> Bekker. λαμβάνοντα Z cum Σ.

35. οὐ.] sc. οὐκ οἶδός, viz. the disgrace τοῦ γυναῖκα τούτῳ δέδωκεναι.

τυχὼν γε τῆς παρ' ὑμῶν δωρεᾶς.] The fact that Pasion was made a citizen of Athens increases the disgrace brought on his family by his providing in his alleged will that his wife should marry Phormio.—Or. 59 § 2 ψηφισαμένου τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναῖον εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἐκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν πόλιν followed by τῇ τοῦ δήμου δωρεᾷ. Or. 36 § 47. [τυχὼν γε seems an imaginary answer in favour of Phormio; 'very true; but then it was after he had received the franchise (that he took the wife).'] 'So then' (the retort is), 'like a slave who makes a wife over to his master, rather than in the converse case, Pasion gave him, it seems, a marriage portion larger than any citizen ever did!' P.]

ὥσπερ ἂν.] sc. διδόντῃ. Pasion's gift of his wife with a large dowry to Phormio, is the kind of gift a slave might offer his master in acknowledgement that all the slave had, belonged by right to his master, and not

such a gift as might be expected from a superior to an inferior, in which latter case a very slight favour would be enough, at any rate the inferior would be content with being allowed to have the honour of being married to his superior's wife, without any dowry at all.

εἴπερ ἐδίδου] which Apoll. does not admit.

προστιθεὶς προῖκα.] Or. 40 § 25 προσθέντας (sc. προῖκα) ἐκδοῦναι. Fals. Leg. § 195 προῖκα προσθεὶς ἐκδώσω καὶ οὐ περιόψομαι παθοῦσας οὐδὲν ἀνάξιον οὐδ' ἡμῶν οὔτε τοῦ πατρός (cf. § 54 infra, προῖκα ἐπιδοὺς ἐκδοῦναι, n.). Eur. Hippol. 628 προσθεὶς ... πατὴρ φερνὰς, ἀπώκισ'... Hyperides, Lycophron col. 11. l. 16 (quoted by Shilleto), εὐθὺς ἐξεδόθη, τάλαντον ἀργυρίου προσθέντος αὐτῇ Εὐφύμου. The commoner term was ἐπιδοῦναι (cf. §§ 30, 54, &c.).

36. λαμβάνοντι χρήματα.] Not even if he got from Phormio (viz. as a bribe for leaving him his wife) the same large amount which the defendants pretend that he gave Phormio as a marriage portion.—φασὶ διδόντα, supply πράξαι ταῦτα.

ταῦτα. ἀλλ' ὅμως ἃ τοῖς εἰκόσι, τοῖς χρόνοις, τοῖς πεπραγμένοις ἐξελέγχεται ψευδῇ, ταῦτα μαρτυρεῖν οὐκ ᾔκνησεν οὕτοσὶ Στέφανος.

- 37 Εἴτα λέγει περιὼν ὡς ἐμαρτύρησε μὲν Νικοκλῆς ἐπιτροπεύσαι κατὰ τὴν διαθήκην, ἐμαρτύρησε δὲ Πασικλῆς ἐπιτροπευθῆναι κατὰ τὴν διαθήκην. ἐγὼ δὲ αὐτὰ ταῦτ' οἶμαι τεκμήρια εἶναι τοῦ μήτ' ἐκείνους τὰ ληθῇ μήτε τούσδε μεμαρτυρηκέναι. ὁ γὰρ ἐπιτροπεύ-  
 38 τρων δῆλον ὅτι καθ' ὅποιās ἂν εἰδείη, καὶ ὁ ἐπιτροπευθῆναι κατὰ διαθήκας μαρ-  
 38 τυρῶν δῆλον ὅτι καθ' ὅποιās ἂν εἰδείη. τί οὖν μαθόν-  
 τες<sup>γ</sup> ἐμαρτυρεῖτε ὑμεῖς ἐν προκλήσει διαθήκας, ἀλλ' οὐκ

<sup>γ</sup> παθόντες H. Wolf et Dindf. (1867). μαθόντες Bekker Z et Dindf. (1846 and 1855) cum libris.

τοῖς εἰκόσι... ἐξελέγχεται ψευδῇ.] 'That which the facts, the dates, the probabilities of the case, shew to be false, Stephanus the defendant has not scrupled to bear witness to.' K. For τοῖς εἰκόσι see esp. §§ 9—14. τοῖς χρόνοις seems inexplicable, except as a rhetorical flourish, for we have had nothing like an argument from dates; and Dobree rightly asks *Quomodo?* Even τοῖς πεπραγμένοις is barely justifiable, unless it is to be referred to §§ 15—18.

§§ 37—39. *Phormio attempts to prove the existence of the 'will,' by going about saying that Nicocles gave evidence to having been guardian, and Pasicles to having been in wardship, under the will. Why then were not the terms of the will deposed to by Nicocles and Pasicles, instead of by Stephanus and his friends? Was it because the former did not know the terms? If not, much less could the latter. How then came the latter witnesses to depose to one*

*set of facts, the former to another? It's the old story; they divided the responsibility of the wrong; the guardian and ward deposed to the guardianship as being under the will, and the other witnesses, under cloak of a challenge, deposed to the contents—the scandalous contents of the 'will.'*

37. κατὰ τὴν διαθήκην.] Or. 36 § 8 Φορμίων τὴν μὲν γυναῖκα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παῖδα ἐπετρόπευεν.

καθ' ὅποιās ἀν.εἰδείη.] 'would know the purport of (the terms of) such will.' [The repetition of the clause δῆλον—εἰδείη seems needless, and perhaps is due to a copyist. P.]

38. τί μαθόντες.] Madvig, *Gk. Synt.* § 176 (b) R.; or Goodwin's *Moods and Tenses* § 109 (b). ['What then induced you to give evidence of a will in connexion with a challenge, instead of letting them prove it for you?'] P.]

ὑμεῖς.] so. οἱ περὶ Στέφανον.—ἐκείνους Nicocles and Pasicles.

ἐκείνους εἰάτε; εἰ γὰρ αὐτὸ μὴ φήσουσιν εἰδέναι τὰ γε-  
γραμμένα ἐν αὐταῖς, πῶς ὑμᾶς οἶόν τ' εἰδέναι τοὺς μη-  
δαμῆ<sup>2</sup> μηδαμῶς τοῦ πράγματος ἐγγύς; τί ποτ' οὖν οἱ  
μὲν ἐκέλευα, οἱ δὲ ταῦτα ἐμαρτύρησαν; ὅπερ εἶρηκα  
39 καὶ πρότερον, διείλοντο τὰ δικάσματα, καὶ ἐπιτροπεῦσαι  
μὲν κατὰ διαθήκην οὐδὲν δεινὸν ἡγείτο μαρτυρεῖν ὁ  
μαρτυρῶν, οὐδ' ἐπιτροπευθῆναι κατὰ διαθήκην, ἀφαι-  
ρῶν ἐκάτερος τὸ μαρτυρεῖν τὰ ἐν ταῖς διαθήκαις ὑπὸ  
τούτου γεγραμμένα, οὐδὲ καταλιπεῖν τὸν πατέρα αὐτῷ<sup>3</sup>  
ἐπιγεγραμμένον γραμματεῖον διαθήκην, οὐδὲ τὰ τοι-  
αῦτα· διαθήκας δὲ μαρτυρεῖν, ἐν αἷς χρημάτων το-  
σούτων κλοπῇ, γυναικὸς διαφθορᾷ, γάμοι δεσποίνης,  
πράγματα αἰσχύνῃ καὶ ὕβριν τοσαύτην ἔχοντα, οὐ-  
δεὶς ἤθελε πλὴν οὗτοι, πρόκλησιν κατασκευάσαντες,  
παρ' ὧν δίκαιον τῆς ὅλης τέχνης καὶ κακουργίας δίκην  
λαβεῖν.

40 "Ἰνα τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, μὴ μόνον ἐξ ὧν

<sup>2</sup> μηδαμῆ Z.

<sup>3</sup> αὐτῷ Z.

οἱ μὲν...οἱ δὲ.] Nicocles and Pasicles...οἱ περὶ Στέφανον.—εἶρηκα καὶ πρότερον refers to § 18.

39. ἀφαιρῶν ἐκάτερος.] i. e. both of them declining to depose to the terms entered in the will by Phormio, not by Pasion himself as is alleged.

καταλιπεῖν] so. δεινὸν ἡγείτο μαρτυρεῖν. The previous participial sentence is subordinate only, and does not carry καταλιπεῖν with it. 'There was no danger in a minor (i. e. Pasicles) deposing, that his father had left him a document entitled "a will." K.

For ἐπιγεγραμμένον διαθήκην cf. Virg. Ecl. iii. 106 'inscripti nomina regum...flores.'

χρημάτων κλοπῇ.] § 34 ὑφῆρται and § 81 init.—γυναικὸς διαφθορᾷ § 27 and 3.—Ὁν ὕβριν cf.

§ 4, where the γάμος leads to a γραφὴ ὕβρεως being threatened by Apollodorus.

§§ 40—42. In bar of the previous action, Phormio pleaded a discharge deposed to have been granted by me, releasing him from all further claims. This is false, as I shall prove at the proper time; but suppose you assume it to be true, it shews that Stephanus has given false evidence and that the will to which he bears witness is a forgery. For no one would be so foolish as to take the precaution of having witnesses present when he gave a discharge to a lessee with a view to getting rid of any claims against himself on the part of that lessee; and yet allow the 'lease' itself and the 'will' to remain

ἐγὼ κατηγορῶ καὶ ἐλέγχω δηλὸς ὑμῖν γένηται τὰ ψευδῇ  
 μεμαρτυρηκώς οὕτως Στέφανος, ἀλλὰ καὶ ἐξ ὧν πεποί-  
 ηκεν ὁ παρασχόμενος αὐτὸν, τὰ πεπραγμένα ἐκείνῳ  
 βούλομαι πρὸς ὑμᾶς εἰπεῖν. ὅπερ δ' εἶπον ἀρχόμενος  
 τοῦ λόγου, δείξω κατηγοροὺς γιγνομένους αὐτοὺς ἐαν-  
 τῶν. τὴν γὰρ δίκην, ἐν ᾗ ταῦτα ἐμαρτυρήθη, παρε-  
 γράψατο Φορμίων πρὸς ἐμὲ μὴ εἰσαγώγιμον εἶναι ὡς 1114  
 41 ἀφέντος ἐμοῦ τῶν ἐγκλημάτων αὐτόν. τοῦτο τοίνυν  
 ἐγὼ μὲν οἶδα ψεῦδος ὄν, καὶ ἐλέγξω δὲ, ὅταν εἰσῶ  
 πρὸς τοὺς ταῦτα μεμαρτυρηκότας· τούτῳ δὲ οὐχ οἶόν  
 τε τοῦτ' εἰπεῖν. εἰ τοίνυν ἀληθῇ πιστεύσαιτ' εἶναι τὴν  
 ἄφεςιν, οὕτω καὶ μάλιστα ἂν οὗτος φανείη ψευδῇ με-  
 μαρτυρηκώς καὶ κατεσκευασμένης διαθήκης μάρτυς  
 γεγονώς. τίς γὰρ οὕτως ἄφρων ὥστε ἄφεςιν μὲν ἐναν-  
 τῖον μαρτύρων ποιήσασθαι, τοῦ βεβαίαν αὐτῷ<sup>β</sup> τὴν

<sup>β</sup> αὐτῷ Z.

sealed to his detriment. The plea is therefore inconsistent with the evidence and the lease is inconsistent with the will; and thus the whole affair is proved to be a fabrication and a fraud.

40. παρεγράψατο ... ὡς ἀφέν-  
 τος.] See notes on Or. 36 *Argument* l. 23 and *ib.* § 29. The distinction there drawn between ἀφιέναι and ἀπαλλάττειν may be exemplified thus:

ἀφῆκε μὲν Ἀπολλόδωρος ὁ ἀπαλ-  
 λαγείς, ἀπήλλαξε δὲ Φορμίων ὁ  
 ἀφθεΐς.

41. τοῦτῳ κ.τ.λ.] *Stephanus*, however, has no right to declare that the evidence to the release is false. [The meaning is, that *Stephanus* was in league with *Phormio*, and therefore was not in a position to deny, though he knew it to be untrue, any plea of *Phormio's* against A.]

τοῦ βεβαίαν αὐτῷ τὴν ἀπαλ-  
 λαγὴν εἶναι.] The plaintiff's ob-

ject in having witnesses to his alleged ἀφesis of *Phormio* would be to ensure his own ἀπαλλαγή, that is, his getting quit of any counter-claim on the part of the latter. Or. 33 § 3, πάντων ἀπαλλαγῆς καὶ ἀφέσεως γενομένης.

If ἀπαλλαγή were synonymous with ἀφesis, we should have to render 'in order to make his discharge of *Phormio's* dues valid.' 'Who would be such a fool,' he would then ask, 'as to give an ἀφesis in presence of witnesses and so lose all right to further claims?' But the sense is rather: 'Admit it true that the plaintiff gave a release to *Phormio* in the presence of witnesses with a view to his own riddance of any counter-claim on *Phormio's* part; no one who had (as alleged) done this, would be such a fool as to allow the compacts and agreements, the

ἀπαλλαγὴν εἶναι, τὰς δὲ συνθήκας καὶ τὰς διαθήκας καὶ τὰλλα, ὑπὲρ ὧν ἐποιεῖτο τὴν ἄφεσιν, σεσημασμένα 42 ἔασαι καθ' αὐτοῦ κείσθαι; οὐκοῦν ἐναντία μὲν ἡ παραγραφή πᾶσι τοῖς μεμαρτυρημένοις, ἐναντία δὲ, ἣν ἀνέγνων ὑμῖν ἄρτι, μίσθωσις, τῇδε τῇ διαθήκῃ· οὐδὲν δὲ τῶν πεπραγμένων οὐτ' εὐλογον οὐθ' ἀπλοῦν οὐθ' ὁμολογούμενον αὐτὸ ἐαυτῷ φαίνεται. ἐκ δὲ τούτου τοῦ τρόπου<sup>ο</sup> πάντα πεπλασμένα καὶ κατεσκευασμένα ἐλέγχεται.

43 Ὡς μὲν τοῖνυν ἐστὶν ἀληθὴ τὰ μεμαρτυρημένα, οὐτ' αὐτὸν τοῦτον οὐτ' ἄλλον ὑπὲρ τούτου δεῖξαι δυνατόν νομίζω. ἀκούω δ' αὐτὸν τοιοῦτόν τι παρσκευασθαι λέγειν, ὡς προκλήσεώς ἐστὶν ὑπεύθυνος, οὐχὶ μαρτυρίας, καὶ δυοῖν αὐτῷ<sup>β</sup> προσήκει δοῦναι λόγον, οὐ πάντων τῶν γεγραμμένων, εἴτε προῦκαλεῖτο

<sup>ο</sup> Z et Dind. cum libris. τοῦ τούτου τρόπου Bekker cum Reiskio.

will, &c. (καὶ τὰλλα sc. περὶ τὴν μίσθωσιν) to remain in existence to his own detriment. No! if he had given a receipt, he would have opened and suppressed the documents. But as a fact, he had not touched them, and his refraining from suppressing them is thus inconsistent with the alleged grant of a release to Phormio. — ποιήσασθαι ἄφεσιν not 'to get' but 'to give a release,' = ἀφείναι, as 'any verb in Greek may be resolved into the cognate substantive with ποιέσθαι.' Shilleto on Fals. Leg. § 103.

42. ἐναντία μίσθωσις... διαθήκη.] §§ 34—36. For πεπλασμένα cf. Or. 36 § 33. — ἐκ τούτου τοῦ τρόπου, 'in this manner.' Kennedy, doubtless following Bekker's text (ἐκ τοῦ τούτου τρόπου), translates: 'just what you might expect from this man's character.'

§§ 43—56. Stephanus will urge, that he is not responsible for a deposition but for a challenge, and for the latter on two points only, (1) the question whether Phormio made this challenge or not, and (2) whether I refused it; and that the terms of the challenge mentioned in the deposition are Phormio's business, not his. If so, the witness ought to have had the words erased when his deposition was drawn up; it is now too late to disclaim them, and he is bound in this trial by the terms of his own plea that he 'gave true testimony, in testifying to that which is written in the record.'

προκλήσεως ὑπεύθυνος] liable to be prosecuted for giving evidence of a pretended challenge that never took place. This is clear from what follows: δεῖ αὐτὸν δοῦναι λόγον εἴτε προῦκαλεῖτο Φ. ἢ μή.

με ταῦτα Φορμίῳ ἢ μὴ, καὶ εἰ μὴ ἐδεχόμην ἐγώ· ταῦτα  
 μὲν γὰρ ἀπλῶς αὐτὸς μεμαρτυρηκέναι φήσει, τὰ δ'  
 ἄλλα ἐκείνον προκαλεῖσθαι, εἰ δ' ἐστὶν ἢ μὴ ταῦτα,  
 44 οὐδὲν προσήκειν αὐτῷ<sup>b</sup> σκοπεῖν. πρὸς δὴ τὸν λόγον  
 τοῦτον καὶ τὴν ἀναίδειαν βέλτιόν ἐστι μικρὰ προειπεῖν  
 ὑμῖν, ἵνα μὴ λάθητε ἐξαπατηθέντες. πρῶτον μὲν, ὅταν 1115  
 ἐγγχειρῇ λέγειν τοῦτο, ὡς ἄρα οὐ πάντων ὑπεύθυνός  
 ἐστίν, ἐνθυμείσθε ὅτι διὰ ταῦτα ὁ νόμος μαρτυρεῖν ἐν  
 γραμματεῖ<sup>c</sup> κελεύει, ἵνα μήτ' ἀφελῇ ἐξ ἡ μήτε προσ-  
 θεῖναι τοῖς γεγραμμένοις μηδέν. τότε οὖν αὐτὸν ἔδει  
 ταῦτ' ἀπαλείφειν κελεύειν, ἃ νῦν οὐ φησι μεμαρτυρη-  
 45 κέναι, οὐ νῦν ἐνόντων ἀναισχυντεῖν. ἔπειτα καὶ τότε  
 σκοπεῖτε, εἰ ἐάσαιτ' ἂν ἐναντίον ὑμῶν ἐμὲ προσγρά-  
 ψαι τι λαβόντα τὸ γραμματεῖον. οὐ δῆπον. οὐκ οὐκ  
 οὐδὲ τοῦτον ἀφαιρεῖν τῶν γεγραμμένων ἔαν προσήκει·  
 τίς γὰρ ἀλώσεται ἔτι ποτὲ<sup>a</sup> ψευδομαρτυριῶν, εἰ μαρ-  
 τυρήσει τε ἃ βούλεται καὶ λόγον ὧν βούλεται δώσει;  
 ἀλλ' οὐχ οὕτω ταῦτα οὐθ' ὁ νόμος διεῖλεν οὐθ' ὑμῖν  
 ἀκούειν προσήκει· ἀλλ' ἐκεῖνο ἀπλοῦν καὶ δίκαιον.

<sup>a</sup> ἐτι ποτὲ ('*legedatur πώποτε*') Dindf. πώποτε *Z cum libris.*

44. μαρτυρεῖν ἐν γραμματεῖ<sup>c</sup>.] 'All testimonial evidence was required to be in writing in order that there might be no mistake about the terms and the witness might leave no subterfuge for himself when convicted of falsehood.' C. R. Kennedy in *Dict. Antiq. s. v. Martyria*.

ἀπαλείφειν.] Used of any obliteration or erasure whether the document was on a tablet of wax, or, as in this case, of some other material, as we learn from Or. 46 § 11 where the deposition in question is described as λευκωμένον and not ἐν μάλῃ γεγραμμένον.

οὐ νῦν, ἐνόντων, ἀναισχυντεῖν.] 'The terms being in the deposition, he ought not to have the impudence to repudiate them now.'

εἰ ἐάσαιτ' ἂν.] When *εἰ* stands for *εἴτε* or *ἢ*, to express an alternative of probabilities, it sometimes takes *ἂν*, which would, in the ordinary sense of *εἰ*, be inadmissible.

45. ἀλώσεται ... ψευδομαρτυριῶν.] For the gen. cf. Or. 24 § 102 ἐάν τις ἀλῶ κλοπῆς καὶ μὴ τιμηθῇ θανάτου..., καὶ ἐάν τις ἀλοῦς τῆς κακώσεως τῶν γονέων..., καὶ ἀστρατείας τις θύλῃ. (Kühner, *Gk. Gr.* § 419, 2 p. 331).—ὧν βούλεται, supply *μόνον*.

τί γέγραπται; τί μεμαρτύρηκας; ταῦθ' ὡς ἀληθῆ δείκνυε. καὶ γὰρ ἀντιγέγραψαι ταῦτα "ἀληθῆ μεμαρ-  
 46 "τύρηκα, μαρτυρήσας τὰ ἐν τῷ γραμματείῳ γεγραμ-  
 ταῦτ' ἔχει, λαβὲ τὴν ἀντιγραφὴν αὐτὴν μοι. λέγε.

## ΑΝΤΙΓΡΑΦΗ.

°[Ἀπολλόδωρος Πασίω-  
 νος Ἀχαρνεὺς Στεφάνῳ  
 Μενεκλέους Ἀχαρνεὶ  
 ψευδομαρτυριῶν, τίμη-  
 μα τάλαντον. τὰ ψευδῆ  
 μου κατεμαρτύρησε Στέ-  
 φανος μαρτυρήσας τὰ  
 ἐν τῷ γραμματείῳ γε-  
 γραμμένα.]

Στέφανος Μενεκλέους Ἀ-  
 χαρνεὺς τὰληθῆ ἐμαρ-  
 τύρησα μαρτυρήσας τὰ  
 ἐν τῷ γραμματείῳ γε-  
 γραμμένα.]°

Ταῦτα οὗτος αὐτὸς<sup>5</sup> ἀντεγράψατο, ἃ χρὴ μνημο- III 16

<sup>°</sup> om. Σ.

<sup>1</sup> Στέφανος Μενεκλέους Ἀχαρνεὺς *cum* Reiskio Bekker. om. Z *cum libris*.

<sup>5</sup> Bekker (Berlin ed.). om. Z *et* Bekker (st. Leipsig ed.) *cum* Σ.

ἀντιγέγραψαι.] 'You have pleaded' in answer to the indictment or plaint (λήξις); see Dict. Antiq. s. v. *Antigraphæ*. 'The two pleadings together, the plaint on the left side, the plea on the right, form (as we should say) the issue on the record. The deposition complained of was annexed.' C. R. Kennedy.—τὸ καὶ τὸ 'so and so;' 'this or that,' cf. τόσα καὶ τόσα in Or. 34 § 24.

46. ἐπ' ἐξαπάρῃ.] Or. 20 (Lept.) § 98 ἐξαπάρῃς ἐνεκα.—ῥηθησομένων. This future is used chiefly in the participle and infinitive, while the 'third future' is probably confined to the third person singular ἐρήσεται. (Veitch *Greek Verbs* s. v.

\*εἶρω.) ῥηθήσεται however is found in Thuc. i. 73, Ar. *Ethics* iv. 1. 14, and *Rhet.* i. 12 and 13.

§§ 47—50. I hear they propose to speak of my original action and to denounce it as fraudulent and vexatious. But I submit that this would be irrelevant to the present issue, and I claim that, instead of their being allowed to go into the proofs of the original claim which they debarred me from adducing, they should be compelled, in the interests of justice and for the convenience of the jury, to keep to the record, and prove that the testimony by which they deprived me of those proofs was true.



νεύειν ὑμᾶς, καὶ μὴ τοὺς ἐπ' ἐξαπάτῃ νῦν λίγους ὑπὸ τούτου ῥηθησομένους πιστοτέρους ποιεῖσθαι τῶν νόμων καὶ τῶν ὑπὸ τούτου γραφέντων εἰς τὴν ἀντιγραφὴν.

- 47 Πυνθάνομαι τοίνυν αὐτοὺς καὶ περὶ ὧν ἔλαχον τὴν ἐξ ἀρχῆς δίκην ἐρεῖν καὶ κατηγορήσειν, ὡς συκοφαντήματα ἦν. ἐγὼ δ' ὃν μὲν τρόπον ἐσκευωρήσατο τὴν μίσθωσιν, ὅπως τὴν ἀφορμὴν τῆς τραπέζης κατάσχοι, εἶπον καὶ διεξῆλθον ὑμῖν, ὑπὲρ δὲ τῶν ἄλλων οὐκ ἂν οἷός τ' εἶην λέγειν ἅμα καὶ τούτους ἐλέγχειν περὶ τῆς μαρτυρίας· οὐ γὰρ ἱκανόν μοι τὸ ὕδωρ ἐστίν.
- 48 ὅτι δ' οὐδ' ὑμεῖς ἐθέλοιτ' ἂν εἰκότως ἀκούειν περὶ τούτων αὐτῶν, ἐκέλευεν εἴσεσθε, ἂν λογίσσησθε πρὸς ὑμᾶς αὐτοὺς ὅτι οὔτε νῦν ἐστὶ χαλεπὸν περὶ ὧν μὴ κατηγορηται λέγειν, οὔτε ψευδεῖς ἀναγνόντα μαρτυρίας ἀποφεύγειν. ἀλλ' οὐδέτερόν γε δίκαιον τούτων οὐδ' ἂν
- 49 εἰς φήσειεν εἶναι, ἀλλ' ὃ ἐγὼ προκαλοῦμαι νῦν. σκοπεῖτε δὲ ἀκούσαντες. ἐγὼ γὰρ ἀξιῶ, οὓς μὲν ἀφείλοντό με ἐλέγχους περὶ τῶν ἐγκλημάτων, οὓς προσήκον ἦν ῥηθῆναι, μὴ ζητεῖν αὐτοὺς νῦν, αἷς δὲ ἀφείλοντο μαρτυρίαις, ὡς εἰσὶν ἀληθεῖς, δεικνύναι. εἰ δ' ὅταν μὲν τὴν δίκην εἰσῶ, τὰς μαρτυρίας με ἐλέγχειν ἀξιώσουσιν, ὅταν δὲ ταύταις ἐπεξίω, περὶ τῶν ἐξ ἀρχῆς ἐγκλη-

47. περὶ ὧν ἔλαχον.] The original indictment of Phormio in the *δίκη ἀφορμῆς* to which Or. 36 is a *παραγραφὴ*.—*ὅπως κατάσχοι*, sup. § 27.—*εἶπον καὶ διεξῆλθον* sc. in §§ 29—36.—On τὸ ὕδωρ, see note on Or. 54 § 36.

48. οὔτε νῦν κ.τ.λ.] i.e. 'it is easy enough for my opponents to introduce into their reply matter that is irrelevant to the case and is no part of my indictment, just as formerly it

was easy enough for them to get an acquittal by reciting false depositions.'

Whether, with Dobree, we read οὔτε (τότε) ψευδεῖς or not, we must in either case take the second clause as a pointed reference to the former trial.

49. αἷς δ' ἀφείλοντο μαρτυρίαις] sc. τοῖς ἐλέγχουσιν.—On τὴν δίκην εἰσῶ see note on § 7 πρὸς ἐκείνους εἰσῶ.

μάτων λέγειν με κελεύουσιν, οὔτε δίκαια οὔτε ὑμῖν  
 50 συμφέροντα ἐροῦσιν. δικάσειν γὰρ ὁμωμέκατε ὑμεῖς  
 οὐ περὶ ὧν ἂν ὁ φεύγων ἀξιοῖ, ἀλλ' ὑπὲρ αὐτῶν ὧν ἂν  
 ἡ δίωξις ᾗ. ταύτην δ' ἀνάγκη τῇ τοῦ διώκοντος λήξει  
 δηλοῦσθαι, ἣν ἐγὼ τούτῳ ψευδομαρτυριῶν εἵληχα. μὴ  
 δὴ τοῦτ' ἀφείς περὶ ὧν οὐκ ἀγωνίζεται λεγέτω· μηδ' 1117  
 ὑμεῖς εἴτε, ἂν<sup>h</sup> ἄρα οὗτος ἀναισχυτῇ.

51 Οἶμαι<sup>1</sup> τοίνυν αὐτὸν οὐδὲν οὐδαμῇ<sup>k</sup> δίκαιον ἔχοντα  
 λέγειν ἤξειν καὶ ἐπὶ τοῦτο, ὡς ἄτοπον ποιῶ, παρα-  
 γραφὴν ἡττημένος, τοὺς διαθήκην μαρτυρήσαντας δι-  
 ᾱκων, καὶ τοὺς δικαστὰς τοὺς τότε φήσειν<sup>1</sup> διὰ τοὺς  
 ἀφείναι μεμαρτυρηκότας ἀποψηφίσασθαι μᾶλλον ἢ  
 διὰ τοὺς διαθήκην μαρτυρήσαντας. ἐγὼ δ', ὦ ἄνδρες  
 Ἀθηναῖοι, νομίζω πάντας ὑμᾶς εἰδέναι ὅτι οὐχ ἥττον  
 τὰ πεπραγμένα εἰώθατε σκοπεῖν ἢ τὰς ὑπὲρ τούτων  
 παραγραφάς· περὶ δὲ τῶν πραγμάτων αὐτῶν τὰ ψευ-  
 δῇ καταμαρτυρήσαντες οὔτοί μου ἀσθενεῖς τοὺς περὶ

<sup>h</sup> ἐάν Ζ.  
<sup>k</sup> οὐδαμῇ Ζ.

<sup>1</sup> οἶμαι Ζ (cf. Or. 86 § 18).  
<sup>1</sup> cum Reiskio Bekker. φήσει Ζ cum libris.

50. περὶ...ὑπὲρ.] § 11 n.—  
 δίωξις. (Dem.) Or. 47 § 70. οἱ  
 δὲ νόμοι τούτων κελεύουσι τὴν  
 δίωξιν εἶναι. The word is also  
 found in Antiphon Or. 6 § 7  
 τὴν δίωξιν εὐσεβείας ἔνεκα ποιεῖσ-  
 θαι.—On λήξει....εἵληχα cf. Or. 86  
 § 50 λήξω.

§§ 51—52. The defendant will  
 urge that the jury in the former  
 trial were led to dismiss my suit  
 by reason of the witnesses in sup-  
 port of the discharge on which  
 Phormio's special plea was based;  
 and not by reason of those who  
 (like himself) gave evidence to the  
 will, as part of the main issue.  
 But I reply that every one knows  
 that juries look to the main issue  
 as well as to the special plea,  
 and I contend that witnesses to the

main issue (like the defendant)  
 crippled my case on the special  
 plea. Where all gave false evi-  
 dence, it is not enough for any  
 individual defendant to point  
 out that some other witness  
 damaged my case more than he  
 did, but to prove that his own  
 evidence is true.

51. ἀφείναι] so. τῶν ἐγκλη-  
 μάτων Φορμίων. Or. 86 §§ 23  
 —25.

τὰ πεπραγμένα.] The facts of  
 the case on its merits, as op-  
 posed to the special plea. See  
 note on Or. 86 Argument I. 25  
 ἀπτεται τῆς εὐθείας κ.τ.λ.

ἀσθενεῖς ἐποίησαν κ.τ.λ.]  
 'Weakened my arguments on  
 the special plea.' This need  
 not imply that he actually

- 52 τῆς παραγραφῆς ἐποίησαν λόγους. χωρὶς δὲ τούτων ἄστοποι, πάντων τὰ ψευδῆ μαρτυρησάντων, τίς μάλιστα ἔβλαψεν ἀποφαίνειν, ἀλλ' οὐχ ὡς αὐτὸς ἕκαστος ἀληθῆ μεμαρτύρηκε δεικνύναι. οὐ γὰρ, ἂν ἕτερον δείξῃ δεινότερα εἰργασμένον, ἀποφεύγειν αὐτῷ προσήκει, ἀλλ' ἂν αὐτὸς ὡς ἀληθῆ μεμαρτύρηκεν ἀποφύνη.
- 53 Ἐφ' ᾧ τολύμν, ὦ ἄνδρες Ἀθηναῖοι, μάλιστ' ἀπολωλέναι δίκαιός ἐστιν οὕτοσὶ Στέφανος, τοῦτ' ἀκούσατέ μου. δεινὸν μὲν γάρ ἐστιν εἰ καὶ καθ' ἕτου τις οὖν τὰ ψευδῆ μαρτυρεῖ, πολλῷ δὲ δεινότερον καὶ πλείονος ὀργῆς ἄξιον, εἰ κατὰ τῶν συγγενῶν οὐ γὰρ τοὺς γεγραμμένους νόμους ὁ τοιοῦτος ἄνθρωπος μόνον,

spoke; as a matter of fact, we find the court would not listen to him (§ 6).

§§ 53—56. By giving false evidence against me, the defendant has done wrong to the unwritten laws of natural affection, for my wife is his first cousin. Very different has been the conduct of my wife's father, Deinias, who holds himself debarred by the claims of kinship from giving even true evidence on my behalf against my opponent Stephanus, who is his sister's son.

53. ἀπολωλέναι.] 'To be put to death' for bearing false witness against his own relations, Apollodorus having married the first cousin of Stephanus.

καθ' ὅτου τις οὖν] = καθ' ὅτου οὖν ὁ αὐτοῦ; like ὅπως οὖν = ὅτι οὖν καὶ ὅπως οὖν.

τοὺς γεγραμμένους νόμους...τὰ τῆς φύσεως οἰκεία.] Soph. Antig. 454 οὐ γὰρ σθένειν τοσοῦτον ὥς ἡμῶν τὰ σὰ κηρύγμαθ' ὥστ' ἀγραπτα κάσφαλῇ θεῶν νόμιμα δύνασθαι θνητὸν δὲ θ' ὑπερδραμεῖν, where, as here, the unwritten law of natural affection is contrasted with human ordinances.

'Intelligitne (asks Cobet) quae sint τὰ τῆς φύσεως οἰκεία opposita τοῖς νόμοις τοῖς γεγραμμένοις? Non opinor. Sed latet in οἰκεία vocabulum quo non est aliud apud Oratores tritius et frequentius, nempe τὰ τῆς φύσεως δίκαια ἀναίρει, veluti in Orat. xxv. 28 προφάσεις πλῆθτων καὶ ψευδεῖς αἰτίας συντιθεῖς τὰ κινὰ δίκαια ἀνατρέψειν οἰκεία. Rectissime igitur commemorat idem Orator xxv. 3 μεθ' αὐτοῦ δείξων ἑκάτερος τὰ τῶν νόμων δίκαια' (Novae Lectiones p. 619).—τὰ τῆς φύσεως οἰκεία may however be retained in spite of the above suggestion, and we may readily render it 'natural relationship' or better 'the home-ties of nature,' 'the natural ties of home affections.' In § 65, Stephanus is denounced as 'the common enemy of all human nature.'

C. R. Kennedy (Introduction to κατὰ Στεφ. p. 45) observes, "To give wilfully false testimony against the plaintiff was an aggravation of his offence, ... for the Athenians excused a man

ἀλλὰ καὶ τὰ τῆς φύσεως οἰκεία ἀναιρεῖ τούτου τοίνυν  
ἐπιδειχθήσεται πεποιηκῶς οὐτοσί<sup>™</sup>. ἔστι γὰρ ἡ τούτου  
54 μήτηρ καὶ ὁ τῆς ἐμῆς γυναικὸς πατὴρ ἀδελφοί, ὥστε  
τὴν μὲν γυναῖκα τὴν ἐμὴν ἀνεψιὴν εἶναι τούτῳ, τοὺς  
δὲ παῖδας τοὺς ἐκείνου καὶ τοὺς ἐμούς ἀνεψιαδούς. 1118  
ἄρ' οὖν δοκεῖ ποτ' ἂν ὑμῶν οὗτος, εἴ τι δὲ ἔνδειαν εἶδε  
ποιούσας ὧν οὐ χρὴ τὰς αὐτοῦ συγγενεῖς, ὕπερ ἤδη  
πολλοὶ πεποιήκασιν, παρ' αὐτοῦ προῖκα ἐπιδούς ἐκδοῦ-  
ναι, ὃς ὑπὲρ τοῦ μηδ' ἂ προσήκει κομίσασθαι ταύτας  
τὰ ψευδῇ μαρτυρεῖν ἠθέλησε, καὶ περὶ πλείονος ἐποι-  
ήσατο τὸν Φορμίωνος πλοῦτον ἢ τὰ τῆς συγγενείας  
55 ἀναγκαῖα; ἀλλὰ μὴν ὅτι ταῦτ' ἀληθῆ λέγω, λαβέ μοι<sup>™</sup>  
τὴν μαρτυρίαν τὴν Δεινίου καὶ ἀναγίνωσκε, καὶ κάλει  
Δεινίαν.

## ΜΑΡΤΥΡΙΑ.

\*[Δεινίας Θεομνήστου Ἀθμονεὺς μαρτυρεῖ τὴν θυ-

™ Bekker (Berlin ed.). ὥστος Z et Bekker (st. Leipsig ed.) cum Σ.

™ Bekker, om. Z cum Σ.

• om. Σ.

for being reluctant even to give true evidence against a relation." [The patriarchal system, descended from the old Aryan peoples, made the Greeks view all family ties as almost inviolable. With all their respect for 'written law,' the obligations of relationship had more of religious sanction. See Cox, Hist. of Greece, I. pp. 15—18. P.]

54. ὁ τῆς ἐμῆς γυναικὸς πατήρ. i. e. Deinias, father of the Theonnestus who speaks the first 15 §§ of Or. 59 κατὰ Νεαίρας, when Apollodorus takes up the speech. Apollodorus, besides being brother-in-law to Theonnestus by marrying the sister of the latter, gave his own daughter in marriage to him (Or. 59 § 2).

ἀνεψιαδούς. Hesych. ἀνεψιαδούς· ἐκ τοῦ ἀνεψιῦ γεγονώς,

§ τῆς ἀνεψιάς, i. e. cousins once removed, second cousins. The form of the word follows the analogy of λοκιδεύς, κνωαδεύς, ἀδελφιδεύς, θυγατρίδους, ἀλωπεκιδεύς, the terminations in -ιδεύς, -ιδέος, -αδέος, (οὗς), being a kind of patronymic form. P.] See Dict. Ant. s. v. *Heres*.

πολλοὶ πεποιήκασιν κ. τ. λ.] Instances of such generosity are given in the passages quoted from Dem. in the note on § 35 *supra*, where instead of ἐπιδόουσα προῖκα the rather less common phrase προσθεῖναι προῖκα is used.

τὰ συγγενείας ἀναγκαῖα.] 'The strong ties of kindred.' Cf. *necessitudo*. Fals. Leg. § 290. ἐπὲρ συγγενῶν καὶ ἀναγκαίων. Cf. Or. 36 § 30 ἀνάγκη...οὐκείων.

55. Δεινίας Θεομνήστου Ἀθμονεὺς.] The father's name is

γατέρα αὐτοῦ ἐκδοῦναι Ἀπολλοδώρῳ κατὰ τοὺς νόμους γυναικα ἔχειν, καὶ μηδεπώποτε παραγενέσθαι, μηδὲ αἰσθῆσθαι ὅτι Ἀπολλόδωρος ἀφήκε τῶν ἐγκλημάτων ἀπάντων Φορμίωνα.]<sup>ο</sup>

- 56 "Ομοίος γε ὁ Δεινίας, ὃ ἄνδρες δικασταί, τούτῳ, ὃς ὑπὲρ τῆς θυγατρὸς καὶ τῶν θυγατριδῶν καὶ ἐμοῦ τοῦ κηδεστοῦ διὰ τὴν συγγένειαν οὐδὲ τἀληθῆ μαρτυρεῖν ἐθέλει κατὰ τούτου. ἀλλ' οὐχ οὔτοσι Στέφανος, οὐκ ὥκνησε καθ' ἡμῶν τὰ ψευδῆ μαρτυρεῖν, οὐδ', εἰ μηδένα τῶν ἄλλων, τὴν αὐτοῦ μητέρα ἰσχυνέθαι τοῖς ἀπ' ἐκείνης οἰκείοις τῆς ἐσχάτης ἐνδείας αἵτιος γενόμενος.

very likely to be right, as Deinias had a son named Theomnestus (Or. 59 §§ 2 and 16) and the grandson very often bore the same name as the grandfather (note on Or. 39 § 27). But of the numerous persons named Deinias or Theomnestus, not one is described in any inscription as Ἀθμορεύς, and the ascription of the witness to the *deme* in question is perhaps due to the invention of the composer of the document.

It is clear that Deinias, on being called, refused to swear to the deposition read aloud to him, οὐδὲ τἀληθῆ μαρτυρεῖν ἐθέλει. The deposition ought therefore to be followed by the word *ἐξωμοσία* as in § 60. (A. Westermann, *u. s.* pp. 109—111.) Cf. Or. 49 § 20.

Apollodorus, be it observed, assumes that the reason why Deinias refuses to swear to the deposition is that it would be to the detriment of his kinsman Stephanus; but the disclaimer may really have been due to Deinias being aware that the evidence was false. As the

document before us is untrustworthy, we cannot tell what the proposed evidence really was,—possibly something referring to Pasion's will (as suggested by Westermann *u. s.*) or rather something to the detriment of Stephanus' character, e.g. his bad behaviour to Apollodorus and his family, or his receiving bribes from Phormio to give false evidence against the plaintiff. (Lortzing, *Apoll.* p. 80.)

56. ἀλλ'—οὐκ ὥκνησε.] Elsewhere, we have the ἀλλὰ repeated, e.g. Or. 21 (Meid.) § 200 ἀλλ' οὐ Μειδίας, ἀλλ' αὐτὸ τῆς ἡμέρας ταύτης λέγει κ.τ.λ. and Or. 23 (Aristoer.) § 89 ἀλλ' οὐκ Ἀριστοκράτης, ἀλλὰ προσηλαΐζει μὲν κ.τ.λ. Passages like these lead Dobree to say, 'namque ἀλλ' οὐκ ὥκνησε,' but either construction is allowable.—οὐδ' εἰ μηδένα τῶν ἄλλων, sc. ἰσχυνέθαι. If he had no respect for any one else, he might at least have respected (had some regard for) his own mother and her relations.

- 57 "Ο τοινυν ἔπαθον δεινότατον καὶ ἐφ' ᾧ μάλιστα ἐξεπλάγην, ἵτ' ἰγωνιζόμεν, ὧ ἄνδρες δικασταί, τοῦθ' ὑμῖν εἰπεῖν βούλομαι· τήν τε γὰρ τούτου ποιηρίαν ἔτι μᾶλλον ἰμεῖς ἔψεσθε, καὶ ἐγὼ τῶν γεγενημένων ἀποδουράμενος τὰ πλείστα πρὸς ὑμᾶς ὥσπερ εἰ ῥάων ἔσομαι. τήν γὰρ μαρτυρίαν, ἣν ὥμην εἶναι καὶ δι' ἧς 1119 ἦν ὁ πλείστος ἑλεγχὸς μοι, ταύτην οὐχ εὖρον ἐνοῦσαν
- 58 ἐν τῷ ἐχίνῳ. τότε μὲν δὴ τῷ κακῷ πληγείς οὐδὲν ἄλλο εἶχον ποιῆσαι πλὴν ὑπολαμβάνειν τὴν ἀρχὴν ἡδίκη-

§§ 57—62. I must tell the jury, by the way, of an atrocious trick which was played me to my great disadvantage in the former action. At the trial itself, the deposition on which I mainly relied proved to be missing; and I have since learnt that it was stolen by Stephanus while the suit was still before the arbitrator.

I call witnesses to prove this: they take an oath of disclaimer. —I thought as much.—Well, to prove they are perjured, I now produce a challenge (duly attested by witnesses) calling on Stephanus to allow his slave to be tortured in the matter of the abstraction of the document; my witnesses depose he refused the challenge.

Now, do the jury suppose that one who thus perpetrated a theft without any personal provocation, would have had the slightest hesitation in giving false evidence in his own interests and at the special instance of another?

57. ἐξεπλάγην.] The form ἐπλάγην is post-Homeric and is used in compounds with the sense 'strike with terror or amazement.' (Veitch *Gk. Vbs.* s. v. πλῆσσω.) For the simple verb, ἐπλήγην is used, as in the

first line of the very next section, but only in the sense of 'receiving a blow from.' [e.g. *Soph. Oed. Col.* 605, διττὴν ἀνάγκη τῇδε πληγῆναι χθονὶ and *Eur. Orest.* 497, πληγῆς θυγατρὸς τῆς ἐμῆς ὑπὲρ (ὕπαι) κάρα. πληγῆς τῷ κακῷ, for ἐκπλάγεις, is remarkable; as if a Roman had said *malò percussus*, for *percussus*. P.]

ἀποδουράμενος τὰ πλείστα πρὸς ὑμᾶς.] 'by unburdening to you all that I can of my past sorrows.' *Hdt.* ii. 141, πρὸς τῷ γαλμα ἀποδύρεσθαι ὅλα κινδυνεύει παθεῖν.

ῥάων ἔσομαι.] 'I shall feel relieved' or to translate it still more closely 'I shall feel easier.' For this use of ῥάων, cf. *Eur. Ion* 872, στέρνων ἀπονησαμένη ῥάων ἔσομαι. *Hero. Fur.* 1407 ὡς δὴ τί φίλτρον τοῦτ' ἔχων ῥάων ἔσει.

58. τὴν ἀρχὴν.] 'the magistrature,' in whose possession the sealed casket of depositions was kept until the trial. Cf. notes on *Or.* 53 § 24 τὴν ἀρχὴν and on *Or.* 39 § 9 where ἀρχήν, like *magistratus* in Latin and 'authorities' in English, is used of the holder of the office as well as of the office itself. 'Portentose *Reiskitus* τὴν 'Αρχιττῆν.'

κέναι μὲ καὶ τὸν ἐχῖνον κεκινηκέναι. νῦν δὲ ἀφ' ὧν ὕστερον πέπυσμαι, πρὸς αὐτῷ τῇ διαιτητῇ Στέφανον τουτουὶ αὐτὴν ὑφηρημένον εὐρίσκω, πρὸς μαρτυρίαν τινὰ, ἢ ἐξορκώσαιμι, ἀναστάντος ἐμοῦ. καὶ ὅτι ταῦτ' ἀληθὴ λέγω, πρῶτον μὲν ὑμῖν μαρτυρήσουσι τῶν τούτοις παρόντων οἱ ἰδόντες. οὐ γὰρ ἐξομνύμαι ἐθελήσειν  
59 αὐτοὺς οἶμαι\*. εἰ δ' ἄρα τοῦτο ποιήσωσιν ὑπ' ἀναδείας, πρόκλησιν ὑμῖν ἀναγνώσεται, ἐξ ἧς τούτους τ' ἐπιπορεύοντας ἐπ' αὐτοφύρῳ λήψεσθε καὶ τοῦτον ὁμοίως ὑφηρημένον τὴν μαρτυρίαν εἴσεσθε. καίτοι ὅστις, ὦ ἄνδρες Ἀθηναῖοι, κακῶν ἀλλοτρίων κλέπτῃς

\* οἶμαι Z (cf. § 51).

says Dobree,—Archippe having died eight or ten years before the suit against Phormio.

τὸν ἐχῖνον κεκινηκέναι.] 'had tampered with the deposition case,' κινεῖν is similarly elsewhere in the sense of 'meddling with unlawfully' in Or. 22 Androt. § 71 and Or. 24 Timocr. § 179 χρήματα κινῶν *lepd.* Hdē. vi. 134 κινεῖν τὰ ἀκίνητα.

ἢ ἐξορκώσαιμι.] 'that I might put a witness on his oath,' sc. τὸν μάρτυρα implied in the preceding μαρτυρίαν. Or. 51 § 26, τῶν παρόντων ἡμῖν (sc. μαρτύρων) καθ' ἓνα οὕτως πρὸς τὸν λίθον ἀγορεύοντες καὶ ἐξορκίζοντες.

ἐξομνύμαι.] 'to take an oath of disclaimer.' Cf. *Fals. Leg.* § 176 ἢ μαρτυρεῖν ἢ ἐξομνύσθαι ἀναγκάσει. εἰ δ' ἐξομνύωσιν, ἐπιπορεύοντας ἐξελέγξω παρ' ὑμῖν φανερώς. Pollux: ἐξωμοσία δὲ, ὅταν τις ἢ πρεσβευτῆς αἰρεθείῃ ἐπ' ἄλλην τινὰ δημοσίαν ὑπηρεσίαν, ἀρρισστεῖν ἢ ἀδυνατεῖν φάσκων ἐξομνύσθαι αὐτὸς ἢ δι' ἑτέρου. ἐξωμνύσας δὲ καὶ οἱ κληθέντες μάρτυρες, εἰ φάσκειεν μὴ ἐπίστασθαι ἐφ' ᾧ ἐκαλοῦντο. *Isaeus Or. 9 (As-*

*typh.)* § 18 καλεῖ Ἰεροκλέα ἵνα ἐναντίον τούτων μαρτυρήσῃ ἢ ἐξομύσῃται. ΜΑΡΤΥΡΙΑ. ἀκριβῶς μὲν ᾔδειν τοῦ γὰρ αὐτοῦ ἀνδρὸς ἔστιν, ἃ μὲν οἶδεν, ἐξομνύσθαι, τῶν δὲ μὴ γενομένων πιστὴν ἐθέλειν ἐπαθεῖναι ἢ μὴ εἰδέναι γεγόμενα. Or. 29 § 20; Or. 58 (Theoclines) § 7; Or. 59 § 28.

59. κακῶν ἀλλοτρίων κλέπτῃς κ.τ.λ.] 'did not shrink from being set down as having stolen what stood in other people's way,' κακῶν ἀλλοτρίων κλέπτῃς is a very questionable expression, ('singulariter dicta sunt' observes Lortzing p. 91), 'a thief of other people's ills,' meaning (as some suppose) one who steals what is detrimental to other people's interests, in this case the μαρτυρία, which is a κακὸν οἰκίῳ τοῦ Phormio and a κακὸν ἀλλότριοις τοῖς Stephanus. Reiske says 'Fur alienorum malorum est Græcis ille qui mala, fraudes, scelera, clam, in oculo exsequitur et perficit, non sponte sua, sed iussu alieno;' and similarly C. B. Kennedy (rather vaguely) renders it 'a person who would commit a theft as a

ὑπέμεινεν ὀνομασθῆναι, τί ἂν ἡγείσθε ποιῆσαι τοῦτον  
60 ὑπὲρ αὐτοῦ<sup>4</sup>; λέγε τὴν μαρτυρίαν, εἴτα τὴν πρόκλησιν  
ταύτην.

# ΜΑΡΤΥΡΙΑ.

<sup>1</sup>[Μαρτυροῦσι φίλοι εἶναι καὶ ἐπιτήδειοι Φορμί-

<sup>2</sup> τοῦτον ἄλλου τοῦ Ζ cum FΣΦ. τοῦτον ὑπὲρ αὐτοῦ Bekker  
cum γρ. FΣΦ. 'sensui' satisfaceret δεομένου vel αἰτοῦντός του. Cf.  
§ 62.' Sauppe.

tool of another.' G. H. Schaefer, who rightly doubts whether κακά ἀλλότρια can mean anything but *mala quae alius patitur*, proposes to read κακῶν with the sense 'qui quid furatur, ut sceleribus alius accommodat.' Another critic (Beels, *diatribe* p. 100) says: 'κακῶν ἀλλοτρίων κλέπτης lepide vocatur Stephanus, qui in gratiam Phormionis et fortasse eius jussu, testimonium e capsula surripuerat.' In Plato Rep. 346 E we have μηδένα ἐθέλειν ἐκόντα ἀρχειν καὶ τὰ ἀλλότρια κακά μεταχειρίζεσθαι ἀνορθοῦντα ('to handle and set right other people's disorders'), but neither this nor any other passage that I can find supports the sense usually assigned to the words before us.

It may therefore be worth while to suggest that κακῶν may be corrupt and should be altered into καὶ τῶν where καὶ emphasizes the whole clause τῶν ἀλλοτρίων κλέπτης ὑπέμεινεν ὀνομασθῆναι, and not τῶν ἀλλοτρίων only. [The latter construction would inappropriately import into the passage some of the humour of the lines in Aristoph. *Banae* 610 εἴτ' οὐχὶ δεινὰ ταῦτα, τύπτειν τοῦτον κλέπτοντα, πρὸς τ' ἀλλότρια 'isn't it a shame to beat this poor fellow (Xanthias) for stealing, and that too—

another man's goods?' A not uncommon παρά προσδοκίαν, as if some other kind of theft were possible.] Or again we may alter κακῶν into καὶ ἐκῶν, comparing § 62 where ὁ τὴν τοῦ κλέπτης φανῆναι (δόξαν) μὴ φυγῶν is parallel to ὅς δ' μηδεὶς ἐκέλευεν ἐθέλοντός (= ἐκῶν) πονηρὸς ἦν.

ἀλλοτρίων in any case is intended to point the contrast with ὑπὲρ αὐτοῦ in the second half of the sentence.

[καὶ τῶν ἀλλοτρίων κλέπτης seems a highly probable emendation; nor is there any difficulty in καὶ referring to the general character of a κλέπτης τῶν ἀλλοτρίων. P.]

60. μαρτυροῦσι κ.τ.λ.] The composer of the present document and the next and of that in Or. 46 § 21, has not taken the trouble to invent any names for the witnesses. He describes them as 'friends of Phormio' to suggest a motive for their disclaiming cognisance of the alleged theft on the part of his witness Stephanus. The writer adds that it was 'on the declaration or award of the arbitrator between Phormio and Ap.' But so long as there were fresh witnesses being brought forward (as appears from § 58 πρὸς μαρτυρίαν κ.τ.λ.), the case was not ripe for the arbitrator's



ωνι, καὶ παρῆναι πρὸς τῷ διαιτητῇ Τισίᾳ, ὅτε ἦν ἀπόφασις τῆς διαίτης Ἀπολλοδώρῳ πρὸς Φορμίωνα, καὶ εἰδέναι τὴν μαρτυρίαν ὑψηρημένον Στέφανον, ἣν αἰτιάται αὐτὸν Ἀπολλόδωρος ὑφελῆσθαι.]<sup>†</sup>

<sup>†</sup> Ἡ μαρτυρεῖτε, ἢ ἐξομόσασθε.

### ΕΞΟΜΟΣΙΑ.

61 Οὐκ ἄδηλον ἦν, ὡς ἄνδρες δικασταί, ἵτι τοῦτο ἐμελλον ποιήσιν, προθύμως ἐξομῆσθαι. ἵνα τοίνυν παραχρήμα ἐξελεγχθῶσιν ἐπιωρκηκότες, λαβέ μοι ταύτην τὴν μαρτυρίαν καὶ τὴν πρόκλησιν. ἀναγίνωσκε.

### ΜΑΡΤΥΡΙΑ.

1120

<sup>†</sup> [Μαρτυροῦσι παρῆναι, ὅτε Ἀπολλόδωρος προῦκαλεῖτο Στέφανον παραδόναι τὸν παῖδα τὸν ἀκόλουθον εἰς βάσανον περὶ τῆς ὑφαιρέσεως τοῦ γραμματείου, καὶ γράμματα ἦν ἔτοιμος γράφειν Ἀπολλόδωρος, καθ' ὃ τι ἔσται ἡ βάσανος. ταῦτα δὲ προκαλουμένου Ἀπολλοδώρου οὐκ ἐβελῆσαι παραδόναι Στέφανον,

<sup>†</sup> om. Σ.

decision; so we must either suppose that the writer has made a mistake, or that at any rate he uses ἀπόφασις in a vague and general sense for the process of decision and its immediate antecedents. (A. Westermann u. s. p. 111—112.)—On ἀπόφασις, cf. Or. 54 § 27 ad fin. The word in this sense is from ἀποφαίνω, not from ἀπόφημι.

61. p. 1120. μαρτυροῦσι.] The fabricator of the document overlooks the fact that the μαρτυρία and the πρόκλησις are two separate documents. It is improbable that he deliberately left out the πρόκλησις, as he has taken the pains to manufacture all the other necessary docu-

ments in the case. The two titles μαρτυρία and πρόκλησις are wrongly placed at the head of the document, implying that either the compiler or the transcriber thought that the document included both. Dindorf (ed. 3) has rightly placed the πρόκλησις after the document, as in Or. 59 § 123 § 124.

καθ' ὃ τι ἔσται ἡ βάσανος.] 'The terms of the torture.' Cf. Ar. Ran. 618—625 (α) καὶ πῶς βασανίσω; (β) πάντα τρόπον κ.τ.λ.—(α) κἄν τι πηρώσω γέ σοι τὸν παῖδα τύπτων ἀργυρίου σοι κείσεται. Antiphon vi. (de Choreuta) § 28 ὁμολόγουν πέρας τὸν δεσπότην παραδῶσιν αὐτῷ βασανίζων τρόπον ὅποιον βούλοιτο.

ἀλλὰ ἀποκρίνασθαι Ἀπολλοδώρῳ δικάζεσθαι, εἰ βούλοιο, εἰ τί φησιν ἀδικεῖσθαι ὑφ' ἑαυτοῦ.]†.

### ΠΡΟΚΛΗΣΙΣ.

- 62 Τίς ἂν οὖν ὑπὲρ τοιαύτης αἰτίας, ὦ ἄνδρες δικασταί, εἴπερ ἐπίστευεν αὐτῷ, οὐκ ἐδέξατο τὴν βάσανον; οὐκοῦν τῷ φεύγειν τὴν βάσανον ὑψηρημένος ἐξελέγχεται. ἄρ' οὖν ἂν ὑμῖν αἰσχυνηθῆναι δοκεῖ τὴν τοῦ τὰ ψευδῇ μαρτυρεῖν δοξαν ὁ τὴν τοῦ κλέπτης φανῆναι μὴ φυγῶν; ἢ δεηθέντος ὀκνησαί τὰ ψευδῇ μαρτυρεῖν, ὅς ἂ μηδεὶς ἐκέλευεν<sup>a</sup> ἐβελοντῆς πονηρὸς ἦν;
- 63 Δικαίως τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, τούτων ἀπάντων δούς δίκην, πολὺ μᾶλλον ἂν εἰκότως διὰ τὰλλα κολασθεῖη παρ' ὑμῖν. σκοπεῖτε δέ, τὸν βίον ὃν βεβίωκεν ἐξετάζοντες· οὗτος γάρ, ἡνίκα μὲν συνέβαιεν εὐτυχεῖν Ἀριστολόχῳ τῷ τραπεζίτῃ, ἴσα βαίων ἐβάδιζεν

<sup>a</sup> Bekker. ἐκέλευεν Z cum Σ.

62. τὴν τοῦ κλέπτης φανῆναι (δῶξαν, 'the discredit of being proved a thief.' ('Who did not shrink from becoming a thief.' K.)

δεηθέντος.] so. τινός. See Kühner Gk. Gr. § 486 A. 2. p. 641 'on the gen. absol. without any substantive like ἀνθρώπων, πραγμάτων being expressed.'

§§ 63—67. Examine the defendant's life and character, and you will find him cringing to and flattering the prosperous, only to desert them when they fall into destitution. For the present, he is the creature of Phormio; and, to compass his own ends, he is willing to do wrong to his own relations, regardless of the ill-repute he thus incurs. He deserves to be abhorred as the common enemy of all humanity. With all his wealth, he has never performed a single public service. Rogues who are poor may have

some allowance made them, for the exigencies of their position; rogues who are rich can claim no excuse and therefore call for punishment at your hands.

63. ἡνίκα συνέβαιεν εὐτυχεῖν Ἀριστολόχῳ.] See Or. 36 § 50. — Note συνέβαιεν followed soon after by βαίων.

ἴσα βαίων ἐβάδιζεν ὑποπετωκὼς ἐκείνῳ.] 'Walked in step with that person and cringed to him.' 'Cringed to him, as he walked beside him.' Harpoor. ἴσα βαίων Πυθοκλεῖ· Δημοσθένης ἐν τῷ κατ' Ἀσχίνου (Fals. Leg. § 315) ἀντὶ τοῦ συνὼν αἰεὶ καὶ μὴ δὲ βραχὺ ἀφιστάμενος. καὶ ἐν τῷ κατὰ Στεφάνου α' φησὶν "Ἀριστολόχῳ τῷ τραπεζίτῃ ἴσα βαίων ἐβάδιζε." Μένανδρος· παρ' αὐτῶν ἴσα βαίων· ἐταῖρα πολυτελής. ('Ἀριστολόχῳ really comes after συνέβαιεν and is understood after ἴσα βαίων.) Mr Shilleto u.s.

- ὑποπεπτωκὸς ἐκείνῳ, καὶ ταῦτα ἴσασι πολλοὶ τῶν  
 64 ἐνθάδ' ὄντων ὑμῶν. ἐπειδὴ δ' ἀπώλετ' ἐκεῖνος καὶ  
 τῶν ὄντων ἐξέστη, οὐχ ἥκιστα ὑπὸ τούτου καὶ τῶν τοι-  
 οῦτων διαφορηθεῖς, τῷ μὲν νίει τῷ τούτου πολλῶν  
 πραγμάτων ὄντων οὐ παρέστη πώποτε οὐδ' ἐβοήθη-  
 σεν, ἀλλ' Ἀπόληξίς καὶ Σόλων καὶ πάντες ἄνθρωποι  
 μᾶλλον βοηθοῦσι. Φορμίωνα δὲ πάλιν ἐώρακε<sup>†</sup>, καὶ  
 τούτῳ γέγονεν οἰκείος, ἐξ Ἀθηναίων ἀπάντων τούτου  
 ἐκλεξάμενος, καὶ ὑπὲρ τούτου πρεσβευτὴς μὲν ᾤχετο 1121  
 εἰς Βυζάντιον πλέων, ἥνίκα ἐκεῖνοι τὰ πλοῖα τὰ τούτου  
 κατέσχον, τὴν δὲ δίκην ἔλεγε τὴν πρὸς Καλχηδονίους,  
 τὰ ψευδῇ δ' ἐμοῦ φανερώς οὕτω καταμεμαρτύρηκεν.  
 65 εἰθ' ὡς εὐτυχούντων ἐστὶ κόλαξ, καὶ ἀτυχῶσι, τῶν  
 αὐτῶν τούτων προδότης, καὶ τῶν μὲν ἄλλων πολιτῶν

<sup>†</sup> ἐώρακε Z.

explains it here as 'trunkling to, and adapting his pace to his companion's.' The phrase became common in later Greek, e. g. Alciphron Ep. III. 56 ἐπαίρεις σεαυτὸν, οὐδὲν δέον, καὶ βαδίζεις ἴσα δὴ [καὶ τύφον πλήρης εἶ] τοῦτο δὴ τοῦ λόγου, Πυθοκλεῖ. See note on § 68.

64. τῶν ὄντων ἐξέστη.] Or. 36 § 50 ἐξέστησαν ἀπάντων τῶν ὄντων.

διαφορηθεῖς.] In pass. generally of things, here of the person, plundered. [But it is an uncommon word. Eur. Bacch. 746, θῶσσαν δὲ διεφοροῦντο σαρκὸς ἐνδυτὰ, 'the cattle had their flesh (or hides, perhaps) carried off in different directions.' *Ibid.* 739, ἄλλαι δὲ δαμάλας διεφόρουσιν σπαράγμασιν. P.]

Ἀπόληξίς.] Harpocr. εἰς τῶν ἰσυγραφέων, ὃν Πλάτων κωμῶδει ἐν Σοφισταῖς. (For ἰ the mss have ν, corrected by Cobet who explains it of the ten συγγραφῆς in Thuc. VIII. 67.) Ἀπόληξίς Προσπάλτιος occurs in Or. 48

πρὸς Μακάρατον as grandfather of Macartatus and there are others of the same name in inscriptions. Of this Solon nothing is known, and Ἀπόληξίς cannot be identified with any of the above.

ἐώρακε] *respexit*, 'has had his eye upon,' i. e. has courted. A remarkable use. P.]

πρεσβευτὴς.] 'Agent.' Or. 32 Zenoth. § 11, πρεσβευτὴν ἐκ βουλῆς τινα λαμβάνομεν... One who negotiates for another is named after a political custom 'an ambassador.'

ἐκεῖνοι] sc. οἱ Βυζάντιοι, implied from Βυζάντιον. See note on Isocr. Paneg. § 110: φάσκοντες μὲν λακωνίσειν τὰναντία δ' ἐκείνοις ἐπιτηδεύοντες.

Καλχηδονίους.] Phormio, it seems, must have been implicated in some mercantile suit with people at Calchedon (opposite Byzantium). The affair is not alluded to elsewhere.

πολλῶν καὶ καλῶν καγαθῶν ὄντων μηδὲν μὴδ' ἐξ  
 ἴσου χρῆται, τοῖς δὲ τοιούτοις ἐβελοντῆς ὑποπίπτει,  
 καὶ μήτ' εἴ τινα τῶν οἰκείων ἀδικήσῃ μήτ' εἰ παρὰ τοῖς  
 ἄλλοις φαύλην δόξαν ἔξει ταῦτα ποιῶν μήτ' ἄλλο μη-  
 δὲν σκοπεῖ, πλὴν ὅπως τι πλέον ἔξει, τοῦτον οὐ μισεῖν  
 66 προσήκει; ἔγωγ' ἂν φαίην. ταῦτα μέντοι τὰ τοσαύτην  
 ἔχοντα αἰσχύνην, ὧ ἄνδρες Ἀθηναῖοι, ἐπὶ τῷ τὴν πό-  
 λιν φεύγειν καὶ τὰ ὄντα<sup>u</sup> ἀποκρύπτεσθαι προήρηται  
 πράττειν, ἵν' ἐργασίας ἀφανεῖς διὰ τῆς τραπέζης ποιῇ-  
 ται καὶ μήτε χορηγῇ μήτε τριηραρχῇ μήτ' ἄλλο μηδὲν  
 ὧν προσήκει ποιῇ. καὶ κατείργασται τοῦτο. τεκμήριον  
 δέ· ἔχων γὰρ οὐσίαν τοσαύτην ὥστε ἑκατὸν μνᾶς ἐπι-  
 δοῦναι τῇ θυγατρὶ, οὐδ' ἡντινοῦν ἐώραται λειτουρ-  
 γίαν<sup>v</sup> ὑφ' ἡμῶν λειτουργῶν, οὐδὲ τὴν ἐλαχίστην. καί-  
 τοι πόσῳ κάλλιον φιλοτιμούμενον ἐξετάζεσθαι καὶ  
 προθυμούμενον εἰς ἃ δεῖ τῇ πόλει, ἣ κολλακεύοντα καὶ  
 τὰ ψευδῇ μαρτυροῦντα; ἀλλ' ἐπὶ τῷ κερδαίνειν πᾶν

<sup>u</sup> Bekker. χρήματα Z cum Σ.

<sup>v</sup> Bekker. λειτουργίαν ἐώραται Z cum Σ. ('F, non Σ.' Dindf.)

65. καλῶν καγαθῶν.] In good Greek always two words (neither καλός καὶ ἀγαθός nor καλοκαγαθός) though the derivative is nevertheless καλοκαγαθία. Cf. θεοὺς ἐχθρὸς and θεοισεχθρία. See note on Isocr. Paneg. § 78.

κοινὸν ἐχθρὸν τῆς φύσεως.] § 63 τὰ τῆς φύσεως οἰκεία ἀναιρεῖ.

66. ἐπὶ τῷ τὴν πόλιν φεύγειν.] 'With a view to escape the public service.' K. [Another singular expression. Such citizens were called διαδρασιπολίται, Ar. Ran. 1014.]

ἐργασίας ἀφανεῖς.] 'Sly (unreturned) profits.' Contrast § 30 ἃ πάντες ἤδεσαν κ.τ.λ.

χορηγῇ...τριηραρχῇ.] See note on Or. 86 § 39 ἐλειτούργεις.—

κατείργασται τοῦτο (middle) 'he has accomplished this object.' τεκμήριον δέ· ἔχων γὰρ.] Madvig Gk. Synt. § 196 a, and note on Isocr. Paneg. § 87.

ἐξετάζεσθαι.] 'To be found in the pursuit of an honourable ambition for willing service to the state.' Or, shorter, 'to shew oneself a man of public spirit.' Harpocr. ἀντὶ τοῦ δρᾶσθαι, Δημοσθένης κατὰ Στεφάνου. καὶ ἐν τῷ κατ' Ἀνδορίωνος (p. 613 ad fin.) 'ἐξητάσθης' φησὶν ἀντὶ τοῦ ὠφθῆς, ἐωράθῃς.

ἀλλ' ἐπὶ τῷ κ.τ.λ.] 'Unfortunately, the defendant is a person who will do anything to get money.' K.

67 ὃν οὗτος ποιήσειεν. καὶ μὴν, ὡς ἄνδρες Ἀθηναῖοι, μᾶλλον ἄξιον ὀργίλως ἔχειν τοῖς μετ' εὐπορίας πο-  
νηροῖς ἢ τοῖς μετ' ἐνδείας. τοῖς μὲν γὰρ ἡ τῆς ἀνάγκης 1122  
χρεία φέρει τινὰ συγγνώμην παρὰ τοῖς ἀνθρωπίνως  
λογιζομένοις· οἱ δ' ἐκ περιουσίας, ὥσπερ οὗτος, πο-  
νηροὶ οὐδεμίαν πρόφασιν δικαίαν ἔχουσιν ἂν εἰπεῖν,  
ἀλλ' αἰσχροκερδία<sup>W</sup> καὶ πλεονεξία καὶ ὕβρις καὶ τῷ  
τὰς αὐτῶν συστάσεις κυριωτέρας τῶν νόμων ἀξιού-  
ναι ταῦτα φανήσονται πράττοντες. ὑμῖν δὲ οὐδὲν  
τούτων συμφέρει, ἀλλὰ τὸν ἀσθενῆ παρὰ τοῦ πλου-  
σίου δίκην, ἂν ἀδικῇται, δύνασθαι λαβεῖν. ἔσται δὲ  
τοῦτο, ἐὰν κολάζητε τοὺς φανερώς οὕτως ἐξ εὐπορίας  
πονηροὺς.

68 Οὐ τοῖνυν οὐδ' ἂ πέπλασται καὶ βαδίζει οὗτος

<sup>W</sup> -εία Z. -ία Σ *prima manu*.

67. ἡ τῆς ἀνάγκης χρεία.] 'The force of circumstances ('the pressure of their necessitous lot,' lit. 'need induced by necessity,') 'leads to some allowance being made for them in the eyes of those who view the case with human fellow-feeling.' Stobæus in quoting this passage in his 'Elegant Extracts' has the reading adopted in the text, instead of the common reading ἡ τῆς χρείας ἀνάγκη. He also has οὐδεμίαν δικαίαν πρόφασιν ἔχουσι, besides, for obvious reasons, omitting ὥσπερ οὗτος. (*Florilegium* 46. 72. p. 816.) The extract proceeds with the words πολλὰ δ' οὐκ κακὰ πράγματα τοῖς ἐλευθέροις ἢ πένια βιάζεται ποιεῖν, ἐφ' οἷς ἀν' ἐλεοῖντο δικαιότερον ἢ προσπολλύνοντο, which do not appear in the present passage. They are really taken from Dem. Or. 57 (Eubulides) § 46, as Meineke might have noted in his edition

of Stobæus. For the copyist's patchwork δ' οὐκ κακὰ πράγματα we should therefore restore δουλικὰ πράγματα from Demosthenes himself, and print the passage as a separate extract.

συστάσεις.] 'plots,' 'conspiracies,' parties, political interests, *studia*, *ἐταιρεῖαι*. Or. 37 § 39 *περιστήσας τοὺς μεθ' ἑαυτοῦ, τὸ ἐργαστήριον τῶν συνεστώτων*. [Eur. Andr. 1088, *εἰς δὲ συστάσεις κύκλους τ' ἐχάρει λαὸς οἰκῆτωρ θεοῦ*. Thuc. II. 21, *κατὰ συστάσεις γινόμενοι*. So also *οἱ συνιστάμενοι* in Ar. Lysistr. 577.] Cf. Or. 46 § 25.

ἐξ εὐπορίας πονηροῖς.] 'made bad by their wealth.' K. is hardly correct here in rendering 'men who (for all their riches) are thus flagrantly dishonest.' It is not in spite of, but directly from, their large means that they become bad citizens. P.]

§§ 68—70. His affected airs as he sullenly slinks along the

παρὰ τοὺς τοίχους ἐσκυθροπακῶς, σῶφροσύνης ἂν τις ἡγήσαιο εἰκότως εἶναι σημεῖα, ἀλλὰ μισανθρωπίας. ἐγὼ γάρ, ὅστις αὐτῷ μηδενὸς συμβεβηκότος δεινοῦ μηδὲ τῶν ἀναγκαίων σπανίζων ἐν ταύτῃ τῇ σχέσει διάγει τὸν βίον, τοῦτον ἡγοῦμαι συνεορακέναι<sup>z</sup>. καὶ λε-

<sup>z</sup> -εωρακέναι Z.

sides of the streets, so far from shewing a modest reserve, really indicate an unsociable character. All this solemn guise is purposely put on, to veil his real disposition, while it serves to repel the approaches of his fellow-men. He has never contributed to the needs of any one of all the citizens of Athens; but as a usurer, who counts his neighbours' needs his own good fortune, he has ejected relations of his from their homes, and shewn himself ruthless in the exaction of interest from his debtors.

68. ἃ πέπλασται κ.τ.λ.] explained by the contrast immediately after, τοῖς ἀπλῶς ὡς πεφύκασι βαδίζουσι καὶ παιδοῖς. ἃ πέπλασται καὶ βαδίζει instead of ἣν ἔχει πεπλασμένην δψιν καὶ τὸ σεμνὸν βάδισμα, is a fresh instance (like ὧν διεφθάρκει in § 27) of the fondness of the Greeks for throwing into the verb what in other languages would be naturally expressed by a substantive.

ἐσκυθροπακῶς.] Or. 54 § 34 μεθ' ἡμέραν μὲν ἐσκυθροπακᾶσι καὶ λακωνίζῃ φασι... For this and similar words expressing sullen and demure demeanour the student should read the speech of Hercules in Eur. Alc. 773—802.

For a similar passage, shewing how keenly the demeanour of persons walking in the streets was criticised at Athens, we

may compare Or. 37 (Pant.) § 52 where the defendant anticipates that the plaintiff will bring up against him his fast walking and loud talking, and his constantly carrying a stick. After contrasting their respective characters he adds (§ 55) τοιοῦτος ἐγὼ ὁ ταχὺ βαδίζων καὶ τοιοῦτος σὺ ὁ ἀτρέμας. Again Plato Charmid. p. 159 b expressly mentions 'walking quietly in the streets' as a mark of σῶφροσύνη. σῶφροσύνη τὸ κοσμίως πάντα πράττειν καὶ ἡσυχῇ, ἐν τε ταῖς ὁδοῖς βαδίζειν καὶ διαλέγεσθαι. Aristotle ascribes κίνησις βραδεία and φωνὴ βαρεῖα to his μεγαλόψυχος (Eth. iv. 9=3) and Theophrastus characterises the 'Arrogant man' (ὁ ὑπερήφανος) as δεινός... ἐν ταῖς ὁδοῖς πορευόμενος μὴ λαλεῖν τοῖς ἐντυγχάνουσιν, κάτω κεκυφώς. Cf. Alexis ap. Athen. i. p. 21 § 38 (referred to by Mr Jebb, Theophr. p. 188), ἐν γὰρ νομίζω τοῦτο τῶν ἀνελευθέρων | εἶναι, τὸ βαδίζειν ἀρρυθμῶς ἐν ταῖς ὁδοῖς. Soph. fragm. 234 b, ὡς νῦν τάχος στείχωμεν' οὐ γὰρ ἔσθ' ὅπως σπουδῆς δικαίας μῶμος ἀφεται ποτε. Alciphron i. 34. 1, ἐξ οὗ φιλοσοφεῖν ἐπενοήσας, σεμνὸς τις ἐγένου καὶ τὰς ὁρῶς ὑπὲρ τοὺς κροτάφους ἐπήρας. εἰτα σχῆμα ἔχων καὶ βιβλίδιον μετὰ χειρὸς εἰς τὴν Ἀκρόδημιαν σοβεῖς. Cf. supr. § 63 ἴσα βαίνων κ.τ.λ. and infr. § 77. σχέσει.] cf. τὸ σχῆμα inf. § 69. [διδγειν ἐν σχέσει seems unlike Demosthenes. The same may

λογίσθαι παρ' αὐτῷ ὅτι τοῖς μὲν ἀπλῶς, ὡς πεφύκασι, βαδίζουσι καὶ φαιδροῖς καὶ προσέλθαι τις ἂν καὶ δεηθείη καὶ ἐπαγγεῖλειεν οὐδὲν ὀκνῶν, τοῖς δὲ πεπλασμένοις καὶ σκυθρωποῖς ὀκνήσειέ τις ἂν προσελθεῖν  
 69 πρῶτον. οὐδὲν οὖν ἄλλο ἢ πρόβλημα τοῦ τρόπου τὸ σχῆμα τοῦτ' ἔστι, καὶ τὸ τῆς διανοίας ἄγριον καὶ πικρὸν ἐνταῦθα δηλοῖ. σημεῖον δέ· τοσοῦτων γὰρ ὄντων τὸ πλήθος Ἀθηναίων, πρᾶττων πολὺ βέλτιον ἢ σὲ προσήκον ἦν, τῷ πῶποτε εἰσήνεγκας, ἢ τίνι συμβέβλησαι πω, ἢ τίνα εὐ πεποίηκας; οὐδὲν ἂν εἰπεῖν  
 70 ἔχοις· ἀλλὰ τοκίζων καὶ τὰς τῶν ἄλλων συμφορὰς καὶ χρεῖας εὐτυχήματα σαυτοῦ νομίζων ἐξέβαλες μὲν

† Bekker. ἢ τίνα εὐ πεποίηκας om. Z cum Σ.

be said of ποιεῖν δόικητον, 'to deprive of a home,' § 70. P.] τοῖς. . φαιδροῖς. . προσέλθαι τις ἂν καὶ δεηθείη.] The 'Surly man' (ὁ αὐθάδης) is characterised by Theophrastus as apt προσαγορευθεῖς μὴ ἀντιπροσεῖπείν.—φαιδροῖς, 'cheerful,' 'bright' (as we say).

δεηθείη καὶ ἐπαγγεῖλειεν.] 'prefer a request and make a promise (or proposal).' The two words are correlative to one another like 'asking and granting a favour.' ἐπαγγεῖλειεν is an emendation for ἀπαγγεῖλειεν proposed by H. Wolf and accepted by Reiske and others. Dobree unnecessarily suggests 'Quaere an potest = ἐπαγγεῖλαιτο, i. e. *open peteret*.' This would involve a needless repetition of the idea of δεηθείη. [Besides, ἐπαγγεῖλσθαι is rather 'to make a profession of,' 'to propose that some one should accept your service' in some matter. P.]

τοῖς πεπλασμένοις καὶ σκυθρωποῖς.] 'Affected and sullen characters.'

69. πρόβλημα τοῦ τρόπου.]

'A cloak to mask his real character.' Soph. Phil. 1008 οἷως μ' ὑπῆλθες, ὥς μ' ἐθηράσω λαβὼν πρόβλημα σαυτοῦ παῖδα τόνδ' ἀγνώτ' ἐμοί. Cf. παραπέτασμα sup. § 19, also πρόσχημα in the sense of 'an excuse.'

ἐνταῦθα δηλοῖ.] 'He shews herein the real rudeness and bitterness (malignity) of his disposition (or temper).'

τῷ πῶποτε εἰσήνεγκας.] 'to whose service did you ever contribute?' Cf. Or. 53 § 9 ἐρανον αὐτῷ...εἰσόσοιμι.

συμβέβλησαι.] 'to whom have you ever lent any aid?' K. Or, perhaps, 'with whom have you had any dealings?' But συμβάλλεσθαι (with perf. pass. used as mid.) may here be used in a general sense of helping, as in Or. 21 (Meid.) § 133 συμβαλουμένους τοῖς συμμάχοις. We have the active use in Or. 34 § 1, συμβόλαια πολλοῖς συμβάλλοντες.

70. ἐξέβαλες.] 'ousted from his patrimony,' cf. Or. 36 § 49 ἐκβαλεῖν. The debtor in such a case would be said ἐκπεσεῖν or ἐκστῆ-

τὸν σαυτοῦ θεῖον Νικίαν ἐκ τῆς πατρῴας οἰκίας, ἀφή- 1123  
ρησαι δὲ τὴν σαυτοῦ πενθερὰν ταῦτα ἀφ' ὧν ἔζη,  
δοίκετον δὲ τὸν Ἀρχεδήμου παῖδα τὸ σαυτοῦ μέρος  
πεποίηκας. οὐδεὶς δὲ πώποτε οὕτω πικρῶς οὐδ' ὑπερ-  
ήμερον εἰσέπραξεν ὥς σὺ τοὺς ὀφείλοντας τοὺς τόκους.  
εἶτα ὅν ὁρᾷτε ἐπὶ πάντων οὕτως ἄγριον καὶ μιᾶρον,

ναι τῶν δυντων. *ib.* § 50. Or. 29  
§ 2 *Μαν ὡμῶς καὶ πικρῶς ὄντα  
συγγενῇ τούτων ἐκ τῆς οὐσίας  
ἀπάσης ἐκβέβληκα.*

θεῖον.] his (maternal) uncle,  
not *patruium*. Reiske suggests  
that this Nicias may be identi-  
fied with the person of that  
name in Or. 36 § 17 married to  
the sister of Apollodorus' wife.  
But the relationships that would  
thus result are rather complex  
(cf. *supra* §§ 54—56), and it  
seems simpler to suppose that  
there were two persons of that  
name in the same family.

δοίκετον.] 'a homeless out-  
cast.' The word is rare in  
this meaning, being generally  
used of an uninhabitable coun-  
try ('*δοίκετος καὶ ἐρημος* Hdt. II.  
84, cf. v. 10. So in Plat. Legg. 778  
B, etc.' L. and S.). Unless we  
accept it in the sense of 'house-  
less,' it would be necessary  
either (as Reiske says) to alter  
παῖδα into οἶκον or to read  
δοικον (as G. H. Schaefer sus-  
pects). The latter word is found  
in this sense in Plato Symp.  
203 D and elsewhere. In Lucian  
however (p. 727), the word  
*δοίκετος* is used as in the present  
passage. *Gallus* § 17, *περιέμενον  
δοίκετος ἐστὼς, ἀχρι δὴ ὁ Μνή-  
σαρχος ἐξεργάζετό μοι τὸν οἶκον.*  
(*Δλεκτρῶν loquitur*).

τὸ σαυτοῦ μέρος.] 'quod ad  
te attinet.' So also τὸ σὸν μέ-  
ρος Soph. O. C. 1366.

ὑπερήμερον εἰσέπραξεν.] 'levied

judgment on a defaulter.' K.  
Dem. Or. 88 (Apat.) § 6. Or. 21  
(Mid.) §§ 81, 89, *συνέβη δὲ ὑπερ-  
μέρῳ γενομένῳ λαθεῖν αὐτῷ διὰ τὸ  
ἀδικηθῆναι.* In Theophrastus the  
'Penurious man' (ὁ μικρολόγος)  
is described as *δεινὸς ὑπερήμεριαν  
πράξει καὶ τόκον τόκου ἀπαιτῆσαι.*  
Pollux: (speaking of debt) ὁ οὐκ  
ἐκτίσας κατὰ προθεσμίαν ὑπερή-  
μερος. Harpocr. *ὑπερήμεροι οἱ  
δικὴν ὀφλόντες ὁπιομανοῦν καὶ τὰ  
ἐπιτίμια τοῖς ἐλοῦσι μὴ ἀποδι-  
δόντες ἐν ταῖς τακταῖς προθεσ-  
μίαις...*

In the whole of this passage  
the speaker dexterously avails  
himself of the odium and un-  
popularity attending the trade  
of a money-lender at Athens.  
Cf. Or. 37 (Pant.) § 52 *μισοῦσιν  
Ἀθηναῖοι τοὺς δανείσαντας*, and  
in the Epistles of Alciphron,  
borrowed doubtless in part from  
the later Attic Comedy, in a  
letter beginning *μέγα κακὸν εἰσω  
οἱ κατὰ τὴν πόλιν τοκογλύφοι*,  
the money-lender is described as  
*πρεσβύτην, ὀφθῆναι ρικνόν, συν-  
εσπακότα τὰς ὀφρῦς* (I. 26), cf.  
*ib.* III. 8. 2 ὁ Χρέμης ὁ κατεσκλη-  
κῶς, ὁ κατεσπακῶς τὰς ὀφρῦς, ὁ  
ταυρηδὸν πάντας ὑποβλέπων. In  
the same letter we have another  
banker, of whom no harm is  
said, called by the conventional  
name *Pasion*, doubtless taken  
from our *Pasion*.

εἶτα — ἡδικηκότα λαβόντες.]  
Compare *Midias* § 97.



τοῦτον ὑμεῖς ἡδίκηκότα ἐπ' αὐτοφώρῳ λαβόντες οὐ τιμωρήσεσθε; δεινὰ ἄρα, ὦ ἄνδρες δικασταί, ποιήσετε καὶ οὐχὶ δίκαια.

- 71 Ἄξιον τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, καὶ Φορμίωνι τῷ παρασχομένῳ τουτονὶ νεμεσῆσαι τοῖς πεπραγμένοις, τὴν ἀναίδειαν τοῦ τρόπου καὶ τὴν ἀχαριστίαν ἰδύοντας. οἶμαι γὰρ ἅπαντας ὑμᾶς εἰδέναι ὅτι τοῦτον, ἥνικ' ὤνιος ἦν, εἰ συνέβη μάγειρον ἢ τινος ἄλλης τέχνης δημιουργὸν πριάσθαι, τὴν τοῦ δεσπότου τέχνην  
72 ἂν μαθὼν πόρρω τῶν νῦν παρόντων ἦν ἀγαθῶν. ἐπειδὴ δὲ ὁ πατὴρ ὁ ἡμέτερος τραπεζίτης ὢν ἐκτήσατ' αὐτὸν καὶ γράμματα ἐπαίδευσεν καὶ τὴν τέχνην ἐδίδαξεν καὶ χρημάτων ἐποίησεν κύριον πολλῶν, εὐδαίμων γέγονεν, τὴν τέχνην, ἣ πρὸς ἡμᾶς ἀφίκετο, ἀρχὴν λαβὼν πάσης  
73 τῆς νῦν παρουσίας εὐδαιμονίας. οὐκοῦν δεινὸν, ὦ γῆ καὶ θεοί, καὶ πέρα δεινοῦ, τοὺς Ἑλληνα μὲν ἀντὶ βαρ-

§§ 71—76. At this point the speaker begins a fierce invective against Phormio. Against Phormio, who produced the defendant as his witness, you have a right to be indignant for his effrontery and his ingratitude. When Phormio was for sale, instead of being bought by a cook, or what not, and learning his master's trade, he had the good fortune to come into the hands of my father, who taught him the business of a banker, and conferred on him many other benefits. Yet, with all his wealth, he is ungrateful enough to allow the founders of his fortunes to remain in poverty and distress. He has not scrupled to marry her, who was once his own master's wife, thus securing to himself a large marriage-portion, while he suffers my daughters to languish without a dowry and become poor old maids in their

father's house. Meanwhile, he counts and calculates the amount of my money, and criticises me as narrowly as a master might his slave.

71. νεμεσῆσαι.] A poetic verb, rarely found in good Greek prose. It occurs, however, in Or. 20 (Lept.) § 161, τοιαῦτα... οἷς μηδεὶς ἂν νεμεσῆσαι; twice in Plato, and also in Arist. Rhet. II. 9. Here as elsewhere νεμεσᾶν is used in its regular sense of 'indignation at undeserved good fortune' (Arist. Eth. II. 7. 15 ὁ νεμεσητικὸς λυπεῖται ἐπὶ τοῖς ἀναξίως εὐ πράττονσι).

ἂν μαθὼν... ἦν.] ἂν influences not only the participle but the principal verb ἦν as well.

72. τραπέζης ὢν.] The participial clause is here, as often, more emphatic than the principal verb ἐκτήσατο. 'Since my father, into whose hands he came, was a banker.'

βάρου ποιήσαντας, γνώριμον δ' ἀντ' ἀνδραπόδου, το-  
 σούτων ἀγαθῶν ἡγεμόνας, τούτους περιορᾶν ἐν ταῖς  
 ἐσχάταις ἀπορίαις ὄντας ἔχοντα καὶ πλουτοῦντα, καὶ  
 εἰς τοῦθ' ἤκειν ἀναιδείας ὥστε, ἥς παρ' ἡμῶν τύχης  
 74 μετέσχε, ταύτης ἡμῖν μὴ τολμᾶν μεταδούναι. ἀλλ'  
 αὐτὸς μὲν οὐκ ὥκνησε τὴν δέσποιναν γῆμαι, καὶ ἡ τὰ  
 καταχύσματα αὐτοῦ κατέχεε τόθ' ἡνίκα ἐωνήθη, ταύτῃ 1124  
 συνοικεῖν, οὐδὲ προῖκα πέντε τάλαντα αὐτῷ γράφαι,  
 χωρὶς ὧν οὐσης τῆς μητρὸς κυρίας οὗτος ἐγκρατὴς  
 γέγονε πολλῶν χρημάτων (τί γὰρ αὐτὸν οἶσθε εἰς  
 τὰς διαθήκας ἐγγράφαι "καὶ τᾶλλα, ὅσα ἐστίν, Ἄρ-  
 "χίππη δίδωμι;") τὰς δ' ἡμετέρας θυγατέρας μελλού-  
 σας δι' ἔνδειαν ἀνεκδότους ἔνδον γηράσκειν περιορᾶ  
 75 καὶ εἰ μὲν πέντης οὗτος ἦν, ἡμεῖς δ' εὐποροῦντες ἐτυγ-  
 χάνομεν, καὶ συνέβη τι παθεῖν, οἷα πολλὰ, ἐμοί, οἱ

73. γνώριμον.] Kennedy ren-  
 ders this: 'a friend instead of  
 a slave.' γνώριμος however is a  
 weaker word than φίλος, though  
 it is curiously placed after it by  
 an anti-climax in Or. 18 (de coro-  
 na) § 284 ξένος ἢ φίλος ἢ γνώ-  
 ριμος. But in the present pas-  
 sage, the context leads us to  
 prefer translating it: 'a man of  
 note instead of a mere slave.'

· τοσούτων ἀγαθῶν ἡγεμόνας.]  
 An unusual phrase; 'who had  
 led him to, shewed him the way  
 to, so many social and political  
 advantages.' P.]

καὶ πλουτοῦντα is perhaps a  
 gloss on τὸν ἔχοντα. Cf. Soph.  
 Aj. 157, πρὸς γὰρ τὸν ἔχονθ' ὁ  
 φθόνος ἔρπει. P.]

ἀναιδείας.] For the gen. cf.  
 Or. 36 § 48 εἰς τοῦθ' ἤκειν μανίας.

74. καταχύσματα.] Harpoer.  
 Δημοσθένης ἐν τῷ κατὰ Στεφάνου  
 α'. ὅτι τῶν νεωγόντων οἱ δεσπότης  
 τραγήματα κατέχεον Ἀριστοφάνης  
 Πλούτῳ δηλοῖ. (Ar. Plut. 768,

φέρει νῦν τοῦσ' εἰσω κομίσω κατα-  
 χύσματα ὥσπερ νεωγόντοις οὐφθαλ-  
 μοῖς ἐγώ). The sweetmeats,  
 nuts, &c. were scattered over  
 the newly-purchased slave and  
 scrambled for by his fellow-  
 servants. 'This was done, not  
 on the slave's account, but for  
 the sake of a good omen, as the  
 Scholiast tells us.' Becker's  
*Charicles* iii. 33 (=p. 368 of  
 Eng. abridg.). Hermann, Pri-  
 vatalt. § 12, 5; St. John *Hellenes*  
 iii. 27.

προῖκα πέντε κ.τ.λ.] § 28.  
 οὐσης κυρίας.] He, as the  
 husband, has got possession of  
 property, as κύριος (or legal  
 possessor) of her, as she was of  
 the said property. P.]

75. εἰ συνέβη τι παθεῖν κ.τ.λ.]  
 'If, in the ordinary course of  
 nature, anything had happened  
 to me;' a common euphemism  
 for death. See note on Or. 54  
 § 25.

παῖδες ἂν οἱ τούτου τῶν ἐμῶν θυγατέρων ἐδικάζοντο, οἱ τοῦ δούλου τῶν τοῦ δεσπότου· θεῖοι γάρ εἰσιν αὐταῖς διὰ τὸ τὴν μητέρα τὴν ἐμὴν τούτου λαβεῖν· ἐπειδὴ δὲ ἀπόρως ἡμεῖς ἔχομεν, τῆνικαῦτα οὐ συνεκδώσει ταύτας, ἀλλὰ λέγει καὶ λογίζεται τὸ πλῆθος ὧν ἐγὼ 76 χρημάτων ἔχω. καὶ γὰρ τοῦτο ἀτοπώτατον πάντων. ὧν μὲν ἀπεστέρηκεν ἡμᾶς χρημάτων, οὐδέπω καὶ τήμερον ἡθέλησεν ὑποσχεῖν τὸν λόγον\*, ἀλλὰ μὴ εἰσαγωγίμους εἶναι τὰς δίκας παραγράφεται· ἡ δὲ τῶν πατρῶων ἐνειμάμην ἐγὼ, ταῦτα λογίζεται. καὶ τοὺς μὲν ἄλλους ἂν τις ἴδοι τοὺς οἰκέτας ὑπὸ τῶν δεσποτῶν ἐξεταζομέ-

\* Bekker. τὸν λόγον om. Z cum Σ.

ἐδικάζοντο.] The regular word used of the suitors under such circumstances was ἐπιδικάζεσθαι (Or. 43 Macart. § 55 τῆς ἐπικλήρου ἐπιδικάζεσθαι and ἐπεδικάζομεν γένει ὧν ἐγγυτάτω). Hence, Dobres suggests: 'legendum vi-

detur ἐδικάζοντο i. e. ἐπεδικάζοντο cum Woflo, a suggestion which, although since supported by the discovery of a marginal correction to that effect in the Paris ms Σ, is not perhaps absolutely necessary, as the wider general term includes the narrower special one. The reference, in any case, is to the provisions of the Athenian law, whereby, when there was no son to inherit the estate, the heiresses were bound to be married to their nearest relatives (not in the ascending line). The next of kin brought his claim before the chief Archon, whose duty it was ἐπιμελεῖσθαι τῶν ἐπικλήρων (Or. 43 § 75), public notice was given of the claim, and if no one appeared to dispute it, the Archon adjudged the heiress to him (ἐπεδικασεν αὐτῷ τὴν ἐπικληρον).

If another claimant appeared, a court was held to decide the suit, according to the Athenian law of consanguinity. Cases even occurred in which the suitor would get his wife taken off his hands to enable him to marry such an heiress (e. g. Or. 57 § 41). If the 'heiress' was poor, and the nearest relative did not choose to marry her, he was bound to give her a marriage-portion according to his own fortune (C. R. Kennedy, Dict. Antiq. s. v. Epiclerus). Or. 43 § 54 lex τῶν ἐπικλήρων δοῦναι θητικὸν τελοῦσιν, εἰ μὴ βούληται ἔχειν ὁ ἐγγυτάτω γένους ἐκδιδόντω ἐπίδοσις κ. τ. λ. (Cf. K. F. Hermann, Privatalt. § 64, notes 10 and 11, with Pollux 3. 38; and see Aristoph. Vesp. 583—7.)

θεῖοι.] Phormio's sons being, like Apollodorus, sons of Archippe, would be 'uncles' to the daughters of their half-brother Apollodorus.—ἡμεῖς is emphatically contrasted with εἰ πένης οὗτος ἦν (supra), [as ὧν ἐγὼ ἔχω inf. with the implied ὧν οὗτος (or ὧν αὐτοῦ) ἔχει.]

76. ἐξεταζομένους.] 'scrutinised,' 'narrowly examined,' 'called

νους· οὗτος δ' αὖ τοῦναντίον τὸν δεσπότην ὁ δοῦλος  
ἐξετάζει, ὡς δῆτα πονηρὸν καὶ ἄσωτον ἐκ τούτων  
77 ἐπιδείξων. ἐγὼ δ', ὦ ἄνδρες Ἀθηναῖοι, τῆς μὲν ὄψεως  
τῇ φύσει καὶ τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα  
οὐ τῶν εὐτυχῶς πεφυκότων ἐμαυτὸν κρίνω· ἐφ' οἷς

to account,' 'taken to task,' (§82 ἐξέταζες δοῦτις ἦν). Liddell and Scott refer to this passage, and explain it 'to question by the torture,' comparing Polybius 15. 27. 7 (φιλοτιμῶς ἐξετάσαι πᾶσαν προτιθέτω βάσανον), but in view of the context it seems better to give it a general sense, though not to the exclusion of the special meaning above suggested. Besides, a reference to the passage in Polybius will shew that the verb there refers not to the torture itself but to the close examination preceding the torture, which latter was only to be applied if the ἐξέτασις failed. [The verb here seems used in a non-Demosthenic sense for ἐλεγχόμενοι τὴν οὐσίαν, 'having their property enquired into.' Slaves, in fact, had no property: but their masters might enquire if they had, rightly or wrongly, become possessed of anything, e.g. of means to purchase their liberty. 'To make an inventory of property' is ἐξετάζειν (Ar. Ecol. 729), or ἐξέτασιν ποιέσθαι, which is also a military term. P.]

77—80. *My aspect of countenance, my quickness of walk and my loudness of talk may not, perhaps, be in my favour; they are not my fault but my misfortune; they distress other people and do me no good; and yet I can claim that I am moderate in my personal expenditure, and I thereby shew that I lead a far more orderly life than*

*Phormio and the like. Towards the state, I have performed public services in a most liberal manner, passing even beyond the requirements of the law, to express the gratitude due to Athens from one who owes his citizenship to her generous adoption of his father. Don't taunt me then, Phormio, with what is really to my credit, but prove, if you can, that I am guilty of immorality like your own. How dare you criticise another's life and character?*

77. τῇ ὄψει τῇ φύσει κ.τ.λ.] These are datives of respect,— 'in the matter of appearance,' &c. K. wrongly construes with κρίνω, 'I judge by,' &c. P.]

τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα κ.τ.λ.] See note on § 68 and cf. particularly Or. 87 (Pant.) § 59, Νικόβουλος ἐπιφθονὸς ἐστὶ καὶ ταχέως βαδίζει καὶ μέγα φθέγγεται καὶ βακτηρίαν φορεῖ, and esp. § 55 where Nicobulus says of himself οὐχὶ λήληθα ἐμαυτὸν, οὐδ' ἀγνοῶ οὐ τῶν εὐπεφυκότων κατὰ ταῦτα ὢν ἀνθρώπων, οὐδὲ τῶν λυσitelούντων ἐαυτοῖς. εἰ γὰρ ἐν οἷς μηδὲν ὠφελούμαι ποιῶν, λυπῶ τινὰς, πῶς οὐκ ἀτυχῶ κατὰ τοῦτο τὸ μέρος; The parallel is so close that it lends some colour to the inference that the two speeches were written by the same orator, and that if Demosthenes wrote either, he probably wrote both, though, of course, imitation of Demosthenic phraseology is quite possible.

γὰρ οὐδὲν ὠφελοῦμενος λυπῶ τινας, ἔλαττον ἔχω  
 πολλαχοῦ· τῷ μέντοι μέτριος κατὰ πάσας τὰς εἰς  
 ἐμᾶν δαπάνας εἶναι πολὺ τούτου καὶ τοιούτων 1125  
 78 ἐτέρων εὐτακτότερον ζῶν ἂν φανείην. τὰ δ' εἰς τὴν  
 πόλιν καὶ ὅσα εἰς ὑμᾶς, ὡς δύναμαι λαμπρότατα, ὡς  
 ὑμεῖς σύνιστε, ποιῶ· οὐ γὰρ ἄγνοῶ τοῦθ', ὅτι τοῖς  
 μὲν γένοι πολίταις ὑμῖν ἱκανὸν ἐστὶ λειτουργεῖν ὥς οἱ  
 νόμοι προστάττουσι, τοὺς δὲ ποιητοὺς ἡμᾶς, ὡς ἀποδι-  
 δόντας χάριν, οὕτω προσήκει φαίνεσθαι λειτουργοῦν-  
 τας. μὴ οὖν μοι ταῦτ' ὀνειδίξε ἐφ' οἷς ἐπαίνου τύχοιμ'  
 79 ἂν δικαίως, ἀλλὰ τίνα, ὦ Φορμίων, τῶν πολιτῶν ἐται-  
 ρεῖν, ὥσπερ σὺ, μεμίσθωμαι; δεῖξον. τίνα τῆς πό-  
 λεως, ἧς αὐτὸς ἡξιώθην, καὶ τῆς ἐν αὐτῇ παρρησίας  
 ἀπεστέρηκα, ὥσπερ σὺ τούτου ὄν κατήσχυνας; τίνος  
 γυναικα διέφθαρκα, ὥσπερ σὺ πρὸς πολλαῖς ἄλλαις  
 ταύτην, ἣ τὸ μνημα ὠκοδόμησεν ὁ θεοῖς ἐχθρὸς οὗτος

τῷ μέντοι μέτριος—φανείην.] This self-complacent assertion may be instructively compared with the passage in Or. 36 §§ 42 and 45, where the present plaintiff is charged with extravagance of expenditure and licentiousness of life.

78. τοὺς ποιητοὺς.] Or. 53 § 18 (of Apollodorus) κατὰ ψήφισμα πολίτης (Hermann, Political Antiquities § 117).

79. ἐταίρειν μεμίσθωμαι.] Aeschin. Timarch. § 13 τῷ παίδι... ὅς ἂν ἐκμισθῶθι ἐταίρειν.

τῆς πόλεως... παρρησίας ἀπεστέρηκα.] νόμος γὰρ ἦν τὸν ἡταιρηκότα μὴ πολιτεύεσθαι Argument to Dem. Fals. Leg. p. 338. Aeschin. Timarch. §§ 19—32, (Hermann, Privatalt. § 29, 22). Or. 59 § 28. This forms the main point of the speech κατ' Ἀνδροκλῆν. See also Ar. Equit. 877.

τὸ μνημα ὠκοδόμησεν... ἀνηλωκὸς πλέον ἢ τάλαντα δύο.] The tendency to extravagant outlay on tombs was checked at Athens by a legal enactment referred to by Cicero, Legg. ii. 26, post aliquanto propter has amplitudines sepulcrorum... lege sanctum est, ne quis sepulcrum faceret operosius quam quod decem homines effecerint triduo. Cf. Plato, Legg. p. 959 D, ἔστω δὲ νόμος οὗτος τῷ μὲν δὴ τοῦ μεγίστου τμήματος εἰς τὴν πᾶσαν ταφὴν ἀναλισκόμενα μὴ πλέον πέντε μῶν κ.τ.λ. Plato even suggests that the tomb or barrow (χώμα) should not take more than the work of five men for five days and that the inscription on the alab should not be more than four lines long, *ib.* p. 958 E.—Lysias Or. 32 § 31 εἰς τὸ μνημα τοῦ πατρὸς οὐκ ἀναλώσας πέντε καὶ ἐκκοσι μᾶς ἐκ πεντακισχιλίων δραχμῶν, τὸ μὲν ἡμῶν

πλησίον τοῦ τῆς δεσποίνης, ἀνηλωκῶς πλέον ἢ τάλαντα δύο; καὶ οὐκ ἦσθάνετο ὅτι οὐχὶ τοῦ τάφου μνημεῖον ἔσται τὸ οἰκοδόμημα τοιοῦτον ὄν, ἀλλὰ τῆς ἀδικίας ἥς  
80 τὸν ἄνδρα ἡδίκηκεν ἐκείνη διὰ τοῦτον. εἶτα τοιαῦτα ποίων καὶ τηλικαύτας μαρτυρίας ἐξενηνοχῶς τῆς ὕβρεως τῆς σταντοῦ σὺ τὸν ἄλλου του βίον ἐξετάζειν τολμᾷς; μεθ' ἡμέραν εἰ σὺ σώφρων, τὴν δὲ νύκτα, ἐφ' οἷς θάνατος ἡ ζημία, ταῦτα ποιεῖς. πονηρὸς, ὦ ἄνδρες Ἀθηναῖοι, πονηρὸς οὗτος ἄνωθεν ἐκ τοῦ ἀνακείου κα-

αὐτῷ τίθησι τὰ δὲ τούτοις λελόγισται (cf. Becker, Charicles III. 108=p. 395 of Eng. Abridg.)

πλησίον τοῦ τῆς δεσποίνης.] Archippe his former master's wife. [τῆς ἀδικίας ἥς—ἡδίκηκεν. The genitive by attraction for the cognate accusative, ἀδικεῖν τινα (μεγάλην) ἀδικίαν. P.]

80. σὺ τὸν ἄλλου] strongly emphatic: 'you (of all men) presume!' &c.

μεθ' ἡμέραν...σώφρων, τὴν δὲ νύκτα ...] Or. 54 § 34 μεθ' ἡμέραν μεν ἐσκυθρωπάκασι κ.τ.λ.

ἐφ' οἷς θάνατος ἡ ζημία.] e.g. certain forms of ὕβρις (K. F. Hermann, Privatalt. § 61, 20, where Lysias is quoted, τοὺς ὕβριζειν δόξαντας ἔξεστιν ὑμῖν θανάτῳ ζημιῶν).

§§ 80—82. You are a rogue of old, Phormio, an arrant rogue; had you been honest, you would have remained poor. As it is, after embezzling the sums under your control, you choose to regard them as an inherited patrimony! Yet, suppose I could have clapped your present property on your shoulders and arrested you summarily as a thief caught in the act, then if you denied the theft, you would have been compelled to confess that you got it all from my father: you could not have got it elsewhere, for you

were a barbarian when we bought you. And yet you ungratefully resisted a suit for the sums claimed from you on our part; you abused us, you criticised the antecedents of our family. Well, even if I am bound to think less of myself than of all the rest of my audience, I am at any rate bound to think more of myself than of Phormio; and Phormio at least, is bound to think less of himself than of me. You may make us out what you please, but you yourself were a slave all the same.

πονηρὸς...ἄνωθεν ἐκ τοῦ ἀνακείου.] A knave, an arrant knave and a villain of old since he left the temple of Castor. ἄνωθεν is a maioriibus, πονηρὸς καὶ πονηρώων, cf. Or. 58 § 17 πονηρὸς ἐκ τριγώνων. Or. 44 (Leochar.) § 5 οὐδὲν ἂν εἶδει ἄνωθεν ἐξετάζειν τὸ γένος τὸ ἡμέτερον. The ἀνακείων is the temple of the Dioscuri or Ἀνακες, as they were called (Plut. Thes. 33, Cic. Nat. Deor. III. § 53). It was one of the places where slaves were sold; Διοσκούρων ἱερὸν, οὗ νῦν οἱ μισθοφοροῦντες δούλοι ἐστάσιν. (Bekker Anecd. s.v.) Harpocr. ἀνακείων· ἀνάκτορον· Δημοσθένης ἐν τῷ κατὰ Στεφάνου. ἱερὸν τῶν Διοσκούρων. Cf. Seneca de constantia sapientis 13 (quoted by

δικος. σημείον δέ· εἰ γὰρ ἦν δίκαιος, πένης ἂν ἦν τὰ τοῦ δεσπότου διοικήσας. νῦν δὲ τοσοῦτων χρημάτων τὸ πλήθος κύριος καταστάς, ὥστε τοσαῦτα λαβεῖν ἀπ' αὐτῶν κλέψας ὅσα νῦν κέκτηται, οὐκ ὀφείλειν ταῦτα, 81 ἀλλὰ πατρῷα ἔχειν ἡγείται. καίτοι πρὸς θεῶν, εἰ κλέπτῃν σε ἀπήγγον ὡς ἐπ' αὐτοφώρῳ εἰληφώς, τὴν οὐ- 1126 σίαν ἦν ἔχεις, εἴ πως οἶόν τ' ἦν, ἐπιθείς σοι, εἰτά σε ἡξίου, εἰ μὴ φῆς ὑφηρημένος ταῦτ' ἔχειν, ἀνάγειν ὅθεν εἰληφας, εἰς τίνα ἂν αὐτὰ ἀνήγαγες; οὔτε γὰρ σοι πατὴρ παρέδωκεν, οὔθ' εἵρες, οὔτε λαβὼν ποθεν ἄλλοθεν ἦλθες ὡς ἡμᾶς· βάρβαρος γὰρ ἐωνήθης. εἰθ' ὃ δημοσίᾳ προσήκεν ἐπὶ τοῖς εἰργασμένοις τεθνάναι, σὺ, τὸ σῶμα σεσωκὼς καὶ πόλιν ἐκ τῶν ἡμετέρων σαυτῷ κτησάμενος καὶ παῖδας ἀδελφούς τοῖς σεαυτοῦ δεσπότης ἀξιοθεῖς ποιήσασθαι, παρεγράψω μὴ εἰσαγωγί- μον εἶναι τὴν δίκην τῶν ἐγκαλουμένων χρημάτων ὑφ' ἡμῶν; εἴτα κακῶς ἡμῖς ἔλεγες, καὶ τὸν ἡμέτερον πα- 82 τέρα ἐξήταξες ἵστεις ἦν; ἐφ' οἷς τίς οὐκ ἂν, ὦ ἄνδρες Ἀθηναῖοι, χαλεπῶς ἤνεγκεν; ἐγὼ γὰρ, εἰ πάντων τῶν ἄλλων ὑμῶν ἔλαττον προσήκει μοι φρονεῖν, τούτου

Beels) 'non moleste feram, si mihi non reddiderit nomen aliquis, ex his qui ad Castoris negotiantur, nequam mancipia ementes vendentesque, quotum tabernis pessimorum servorum areae refertae sunt.'

81. κλέπτῃν σε ἀπήγγον κ.τ.λ.] See Or. 54 § 1 τῇ τῶν λωποδυτῶν ἀπαγωγῇ π.—ἐπ' αὐτοφώρῳ, *flagrante delicto*.

ἀνάγειν.] ἀνακομίζω, 'to take back,' so. ἐκείσε ὅθεν (or εἰς τοῦτον δφ' οὗ) εἰληφας.

οὔτε πατὴρ παρέδωκεν, οὔθ' εἵρες.] Or. 36 § 43, οὐδὲ γὰρ Παρίων ὅσος πατὴρ ἐκτήσαθ' εὐρῶν οὐδὲ τοῦ πατρὸς αὐτῷ παραδόντος. βάρβαρος ἐωνήθης.] Eur. Iph.

Aul. 1400, βαρβάρων Ἑλλήνας ἀρχειν εἰκός, ἀλλ' οὐ βαρβάρους, μήτερ, Ἑλλήνων, τὸ μὲν γὰρ δοῦλον οἱ δ' ἐλεύθεροι, the first four words of which are quoted by Arist., Pol. i. 2. 4, with the comment ὡς ταυτὸ φύσει βάρβαρον καὶ δοῦλον ἐν.

ἐπὶ τοῖς εἰργασμένοις.] 'for what you have done,' Esch. Suppl. 6, οὐτ' ἐφ' αἵματι δημοκρασίαν ψήφῳ πόλεως γνωσθεῖσαι. Mid. p. 549, φεύγειν ἐφ' αἵματι. P.]

82. ἐξήταξες.] i. e. in Or. 36 §§ 43 and 48, ἐγένετο Παρίων Ἀρχεστράτου. On ἐξετάζειν cf. § 76.

γε μείζον, οἶμαι, καὶ τούτῳ γε εἰ μηδεὶς τῶν ἄλλων ἔλαττον, ἐμοῦ γε ἔλαττον· ἔντων γὰρ ἡμῶν τοιούτων, ὁποῖους τινὰς ἂν καὶ σὺ κατασκευάσῃς τῷ λόγῳ, σὺ δούλος ἦσθα.

- 83 Τάχα τοίνυν ἂν ἴσως καὶ τοῦτό τις αὐτῶν εἴποι, ὡς ἀδελφὸς ὢν ἐμὸς Πασικλῆς οὐδὲν ἐγκαλεῖ τῶν αὐτῶν τούτῳ πραγμάτων. ἐγὼ δ', ὦ ἄνδρες Ἀθηναῖοι, καὶ περὶ Πασικλέους, παραιτησάμενος καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ προελθυσθὼς εἰς τοῦτο ὥστε ὑπὸ τῶν ἐμαυτοῦ δούλων ὑβρίσθαι\* οὐ δύναμαι

\* ὑβρισεῖς Z cum libris.

μείζον] so. προσέθε: φρονεῖν, which is also understood in both the next two clauses.

σὺ δούλος ἦσθα.] Emphatically placed at the close of the passage.

§§ 83—84. Oh, but my brother Pasicles takes no part with me in these claims against Phormio!

As for Pasicles (craving your forgiveness for being provoked into uttering what I am about to say), while I acknowledge him as my mother's son, yet, judging from his taking Phormio's side against me, I have my fears that his father was another. Say no more, then, of Pasicles! call him your son, Phormio, and not your master; my opponent (as he is bent upon it)—not my brother.

88. τούτῳ. Depending on ἐγκαλεῖ, not on τῶν αὐτῶν.

ὑβρίσθαι.] The ms has ὑβρισεῖς, which makes it necessary to take ὥστε with οὐ δύναμαι κατασχέειν and at first sight leaves εἰ without a verb. To remove the supposed difficulty, Dobree reads ὑβρίσθαι, placing παραιτησάμενος—κατασχέειν in a parenthesis. The infin. is also approved by G. H. Schaefer and

accepted by Dindorf. But the emendation is at once unnecessary and inadequate, and we prefer accepting the arrangement suggested by Shilleto, who has been the first to explain the ms reading correctly. 'Schaefer ὑβρίσθαι frustra tentat. Interpunctionis egebat locus, non coniecturae.' The passage should run as follows: ἐγὼ δ' ὦ ἄνδρες Ἀθηναῖοι καὶ περὶ Πασικλέους, (παραιτησάμενος καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ, προελθυσθὼς εἰς τοῦτο ὥστε ὑπὸ τῶν ἐμαυτοῦ δούλων ὑβρισεῖς οὐ δύναμαι κατασχέειν, ἃ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν ἐδόκουν ἐρῶ καὶ οὐ σιωπήσομαι) ἐγὼ γὰρ... νομίζω. 'γὰρ post parenthesis saepe fraudi fuit criticis' (Fals. Leg. § 107 not. crit.).

[The passage is slightly ἀνακόλουθον, but it can hardly be doubted that we must construe προελθυσθὼς εἰς τοῦτο ὥστε—ὑβρισεῖς οὐ δύναμαι κατασχέειν, 'having reached such a point that—I am unable to restrain (my feelings),' and συγγνώμην ἔχειν (ἐμοῖ) εἰ — ἐρῶ καὶ οὐ σιωπήσομαι. The ἐγὼ δ' at the beginning is resumed at ἐγὼ



- κατασχεῖν, ἃ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν  
 84 ἐδόκουν, ἐρῶ καὶ οὐ σιωπήσομαι. ἐγὼ γὰρ ὁμομήτριον  
 μὲν ἀδελφὸν ἑμαντοῦ Πασικλέα νομίζω, ὁμοπάτριον  
 δ' οὐκ οἶδα, δέδοικα μέντοι μὴ τῶν Φορμίωνος ἀμαρ- 1127  
 τημάτων εἰς ἡμᾶς ἀρχὴ Πασικλῆς ᾗ. ὅταν γὰρ τῷ δού-  
 λῳ συνδικῇ τὸν ἀδελφὸν ἀτιμῶν, καὶ παραπεπτωκῶς  
 θαυμάζη· τούτους ὑφ' ὧν αὐτῷ θαυμάζεσθαι προσήκε,  
 τίν' ἔχει δικαίαν ταῦθ' ὑποψίαν; ἄνελε οὖν ἐκ μέσου  
 μοι Πασικλέα, καὶ σὺς μὲν υἱὸς ἀντὶ δεσπότητος καλεί-  
 σθω, ἐμὸς δὲ ἀντίδικος (βούλεται γὰρ) ἀντ' ἀδελφοῦ.
- 85 Ἐγὼ δὲ τούτῳ μὲν χαίρειν λέγω, οὗς δ' ὁ πατήρ  
 μοι παρέδωκε βοηθοὺς καὶ φίλους, εἰς τούτους ἦκω,  
 εἰς ὑμᾶς, ὧ ἄνδρες δικασταί. καὶ δέομαι καὶ ἀντιβολῶ  
 καὶ ἱκετεύω, μὴ ὑπερίδητέ με καὶ τὰς θυγατέρας δι'  
 ἔνδειαν τοῖς ἑμαντοῦ δούλοις καὶ τοῖς τούτου κόλαξιν

γὰρ ὁμομήτριον. There is no great difficulty in the passage; certainly it is not made clearer by any proposed alteration. He was going to say ἐγὼ καὶ περὶ Πασικλέους—ἐρῶ, but he lost himself, as it were, in the maze of the intervening clauses. P.]

84. παραπεπτωκῶς.] 'Court- ing,' 'flattering.' As this verb does not seem to occur elsewhere in this sense (which indeed is not noticed in Liddell & Scott) H. Wolf and Dobree would prefer ὑποπεπτωκῶς as in §§ 63, 65; but the text is supported by the mss and by Harpocration, who says: ἀντὶ τοῦ ὑπο- πεπτωκῶς. Δημοσθένης ἐν τῷ κατὰ Στεφάνου.—παραπεπτωκῶς implies subservience of a less abject and cringing form than ὑποπεπτωκῶς, which would be too strong a word for this con- text. 'ὑποπίπτειν est ad pedes alieuius, παραπίπτειν ad latus alieuius succumbere' (Lortzing,

Apoll., p. 90).

Πασικλέα.] The silence of Pasicles is a point brought against Apoll. in Or. 36 § 22. The insinuation in the text seems quite gratuitous, and its indelicacy forms a singular con- trast to the plaintiff's affectation of reserve in referring to his mother in the earlier part of the speech (§ 3 and § 27).

§ 85. Farewell, then, to my so-called brother; while I turn to my true friends, the jury, and appeal to them not to allow me to be laughed to scorn by my own servants and by those who cringe to them, like Stephanus.—My father was a great benefactor to the state, and it would hardly be creditable to yourselves that his son should suffer wrong.

85. δέομαι... ἀντιβολῶ... ἱκε- τεύω.] Cf. § 1.

τοῖς τούτου κόλαξιν] i. e. Ste- phanus and his friends (not ex- cluding Pasicles).

ἐπίχαρτον γενόμενον. ὁ ἐμὸς ὑμῖν πατὴρ χιλίας ἔδωκεν ἀσπίδας, καὶ πολλὰ χρήσιμον αὐτὸν παρέσχε, καὶ πέντε τριήρεις ἐβελοντῆς ἐπιδούς καὶ παρ' αὐτοῦ πληρώσας ἐτριηράρχησε τριηραρχίας. καὶ ταῦτα, οὐκ ὀφείλειν ὑμᾶς νομίζων χάριν ἡμῖν, ὑπομιμνήσκω· ἡμεῖς γὰρ ὀφείλομεν ὑμῖν ἀλλ' ἵνα μὴ λάθω τι παθὼν τούτων ἀνάξιον· οὐδὲ γὰρ ὑμῖν ἂν γένοιτο καλόν.

86 Πολλὰ δ' ἔχων εἰπεῖν περὶ ὧν ὕβρισμαι, οὐκ ἰκα-

ἐπύχατον.] Thus. III. 67. 'Demosthenes non dixit.' (Lortzing, *Apoll.* p. 91.)

ἀσπίδας.] The father, Pasion, had a shield manufactory, as we learn from Or. 36 § 4.

ἐπιδούς.] Used of voluntary free gifts for state purposes (ἐπιδόσεις) opp. to εἰσφέρειν. See Wolf's *Leptines* p. 66, ed. Beatson, notes 109, 110; and Boeckh, *P. E.* Book IV. § 17, notes 447—454.

ἐτριηράρχησε τριηραρχίας.] At first sight this is an exception to the usual idiom, whereby a cognate accusative is not used after a verb except with an adjective. But the clause πέντε τριήρεις ἐβελοντῆς ἐπιδούς is virtually an adjectival phrase descriptive of the nature of the trierarchies. Thus, in English we do not say 'he fought a fight' by itself, but 'he has fought a good fight,' or, 'he fought a fight and won the day,' where the additional clause in italics is equivalent to an adj. to the cognate accusative 'fight.' (See esp. Mayor's note on *dicta dicere* and *servitutem serviant* Cic. Phil. II. § 42 where the absence of the adj. is explained by the sense of the acc. being different from that of the governing verb and therefore cognate in form alone.) 'Speciose Reiskius & ἐτριηράρχησε τριηραρχίας i.e. πέντε' Do-

bree. [Compare ἀρχὴν δοῦναι. Here we should have expected either ἐτριηράρχησεν αὐτῶν, or ἐτρ. τὰς τριηραρχίας.] On the trierarchal services of Apollodorus, see note on Or. 36 § 41.

§§ 86—end. Time would not suffice to tell of all the outrages inflicted on me; but you may form some notion of their enormity if each one of you would just think of the slave he left at home and imagine himself treated by him as I have been treated by Phormio. Whatever satisfaction each of you would claim under such circumstances, you will allow me to have a right to now, and I therefore ask you for the sake of the laws and of your solemn oaths to establish a signal precedent by the punishment of the man who by his false evidence robbed me of that satisfaction. Remember all that you have heard on our side and meet my opponents' suggestions at every point. If they deny that they are responsible for all the details of their deposition, ask them 'What stands in the document?' 'Why did not Stephanus erase the clause?' If they say that a will has been deposed to by a guardian, by a ward, and by one who has it in his keeping; then ask these three witnesses 'What will?' 'what are its terms?' for not one of the three

νὸν ἐν τὸ ὕδωρ ὁρῶ μοι. ὡς οὖν μάλιστ' ἂν ἅπαντας  
 ὑμᾶς ἡγοῦμαι γινῶναι τὴν ὑπερβολὴν ὧν ἡδικήμεθ'  
 ἡμεῖς, φράσω· εἰ σκέψαιτο πρὸς ἑαυτὸν ἕκαστος ὑμῶν  
 τίς οἴκοι κατέλιπεν οἰκέτην, εἰθ' ὑπὸ τούτου πεπον-  
 θὸθ' ἑαυτὸν θεῇ ταύθ' ἅπερ ἡμεῖς ὑπὸ τούτου. μὴ  
 γὰρ εἰ Σύρος ἢ Μάνης ἢ τίς ἕκαστος ἐκείνων, οὗτος δὲ  
 Φορμίων· ἀλλὰ τὸ πρᾶγμα τὸ αὐτό· δοῦλοι μὲν ἐκεί-  
 νοι, δοῦλος δ' οὗτος ἦν, δεσπότης δ' ὑμεῖς, δεσπότης  
 87 δ' ἦν ἐγώ. ἦν τοίνυν ὑμῶν ἂν ἕκαστος δίκην ἀξιώσειε  
 λαβεῖν, ταύτην νομίζετε καὶ μοι προσήκειν νῦν· καὶ  
 τὸν ἀφηρημένον τῷ μαρτυρῆσαι τὰ ψευδῆ καὶ ὑπὲρ τῶν 1128  
 νόμων καὶ ὑπὲρ τῶν ὄρκων, οὓς ὁμωμοκότες δικάζετε,  
 τιμωρήσασθε καὶ<sup>b</sup> παράδειγμα ποιήσατε τοῖς ἄλλοις,  
 μνημονεύοντες πάντα ὅσα ἀκηκοάτε ἡμῶν, καὶ φυλάτ-  
 τουντες, ἐὰν παράγειν ἐπιχειρῶσιν ὑμᾶς, καὶ πρὸς ἕκα-  
 στον ἀπαντῶντες, ἐὰν μὴ φᾶσιν ἅπαντα μεμαρτυρη-  
 κέναι, “τί οὖν ἐν τῷ γραμματείῳ γέγραπται; τί οὖν

<sup>b</sup> Bekker (Berlin ed.).  
 cum FΣΦ.

om. Z et Bekker (st. Lipsig ed.)

has gone so far as to attest to the terms of the will, which are deposed to by the other witnesses (viz. by Stephanus and his friends). If they appeal to your compassion, remember that the victim of a wrong deserves more pity than those who are doomed to be punished; and that if you inflict that punishment, you will grant redress to myself, you will restrain my opponents from their abject adulation, and you will be giving a verdict which will be true to your solemn oath.

οὐχ ἱκανὸν τὸ ὕδωρ.] Cf. note on Or. 54 § 36.

μὴ γάρ.....] so. σκέψαιτο, understood from σκέψαιτο in the previous sentence.

Σύρος ἢ Μάνης.] Both common slave-names. Strabo vii.

p. 467 ἐξ ὧν γὰρ ἐκομίζετο ἡ τοῖς ἔθνεσιν ἐκείνοις ὁμωνύμου ἐκάλουν τοὺς οἰκέτας ὡς Λυδὸν καὶ Σύρον, ἢ τοῖς ἐπιπολάζουσιν ἐκεῖ ὀνόμασι προσηγόρευον, ὡς Μάνην (cf. Or. 53 § 20) ἢ Μίδα τὸν Φρύγα, Τίβιον δὲ τὸν Παφλαγῶνα (K. F. Hermann, Privatalt. § 13, 16). [Ar. Pac. 1146, τὸν τε Μανὴν ἢ Σύρα βωστρησάτω 'κ τοῦ χωρίου. P.]

87. τὸν ἀφηρημένον.] Him (i. e. Stephanus) who by false testimony has robbed me of it (i. e. of my right to a verdict, τὸ δίκην λαβεῖν).

μνημονεύοντες ... φυλάττουσιν.] Or. 36 § 61.

τί οὖν...γέγραπται.] Cf. § 45. ἀπηλεῖφου § 44. ἡ ἀντιγραφὴ § 46.

“οὐ τότε ἀπηλείφου; τίς ἢ παρὰ τοῖς ἄρχουσιν ἀντι-  
 88 “γραφή;” ἔαν μεμαρτυρηκέναι τὸν μὲν ἐπιτροπευθῆ-  
 ναι κατὰ διαθήκας, τὸν δ’ ἐπιτροπεῦσαι, τὸν δ’ ἔχειν,  
 ποίας; ἐν αἷς τί γέγραπται; ταῦτ’ ἐρωτᾷτε· ἂ γὰρ  
 οὗτοι μεμαρτυρήκασιν, οὐδεὶς ἐκείνων προσμεμαρτύ-  
 ρηκεν. ἔαν δ’ ὁδύρωνται, τὸν πεπονθότα ἐλεεινότερον  
 τῶν δωσόντων δίκην ἡγείσθε. ταῦτα γὰρ ἂν ποιήτε,  
 ἐμοὶ τε βοηθήσετε, καὶ τούτους τῆς<sup>ο</sup> ἄγαν κολακείας  
 ἐπισχήσετε, καὶ αὐτοὶ τὰ εὖορκα ἔσεσθε ἐψηφισμένοι.

<sup>ο</sup> Bekker. τὰς Ζ cum FΣΦ.

88. τὸν μὲν ἐπιτροπευθῆναι  
 κ.τ.λ.] §§ 37, 38.

τὸν δ’ ἔχειν.] ‘Has the docu-  
 ment in his custody,’ i. e. the  
 γραμματεῖον inscribed διαθήκη  
 Πασίωνος § 16, ὃ μὲν γραμματεῖον  
 ἔχειν ἐφ’ ᾧ γεγράφθαι διαθήκη  
 Πασίωνος,

ἂ γὰρ.] None of the witnesses  
 corroborate one another; one  
 group depose to one series of  
 isolated facts; another to  
 another.—οὗτοι, Stephanus and

his supporters.—ἐκείνων, Pasi-  
 cles and Nicocles.

ἔαν ὁδύρωνται.] Alluding to  
 the pathetic appeals of the  
 peroration. Cf. the *miserabiles*  
*epilogi* of Cicero and the ἐλέου  
 ἐκβολή of the Greek Rhetoricians  
 (Volkman, die Rhetorik der  
 Griechen und Römer § 27).

εὖορκα κ.τ.λ.] So in the  
 former speech on the other  
 side; Or. 36 § 61 αὐτοὶ εὖορκί-  
 σετε.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ  
ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Β.

ΤΠΟΘΕΣΙΣ.

[Εν τούτῳ τῷ λόγῳ καὶ τῶν φθασάντων τινὰ ἐπικατασκευάζεται, καὶ ἕτερα προσεισάγεται, εἰ καὶ \*παράνομοι αἱ διαθήκαι.]

\* 'immo ὡς καὶ vel ὅτι καὶ. al Bekkerus addidit' Z.

Ι "Οτι μὲν οὐκ ἀπορήσειν ἔμελλε Στέφανος οὕτως ὅ τι ἀπολογήσεται περὶ τῆς μαρτυρίας, παράγων τῷ λόγῳ, ὥς οὐ πάντα μεμαρτύρηκε τὰ ἐν τῷ γραμματεῖῳ γεγραμμένα, καὶ ἐξαπατῶν ὑμᾶς, καὶ αὐτὸς σχεδὸν τι ὑπενούουν, ὃ ἄνδρες δικασταί. πανουργός τε γὰρ ἐστί

*Argument.* τῶν φθασάντων τινὰ ἐπικατασκευάζεται.] 'The speaker establishes afresh some of the points of his former speech.' φθάνειν in this sense is common in late Greek, e. g. Argument to Or. 4 (Philippic) τῷ φθάνειν (λόγῳ), and Aelian Var. Hist. I. 84 τὰ φθασάντα, 'the matters before-mentioned.' ἐπικατασκευάζειν (according to Sophocles' Lex. of late Greek) is found in Dio Cassius 50. 23. 3 ('to construct on') and Eusebius II. 557 A ('to prepare after'). It is here perhaps middle, and not passive. — προεισάγειν is found in Diogenes Laertius 9. 88 (quoted by Liddell and Scott, who take it as middle in the present passage). — αἱ διαθήκαι. The Kerrich MS like the rest, omits the article.

§§ 1—3. *Stephanus has made*

a long reply to my former speech, and, as I suspected, has had a good deal to say in defence of his evidence. A cunning rogue himself, and well primed by Phormio's numerous advisers, he has attempted to mislead you into the notion that he is not responsible for all the details of his deposition. He has not brought a single witness to prove, either (1) that he was present when my father made the alleged will, or (2) that he ever saw it opened after my father's death; and yet he has actually deposed that the copy set forth in his deposition is a transcript of the 'will.' By so doing he is palpably convicted of having given false testimony.

1. παράγων—ὑπενούουν.] Apollodorus had already, in his former speech, thrown out his

καὶ οἱ γράφοντες καὶ οἱ συμβουλευόντες ὑπὲρ Φορμίωνος πολλοί· ἅμα τ' εἰκός ἐστι τοὺς ἐγγχειροῦντας τὰ ψευδῇ μαρτυρεῖν καὶ τὴν ἀπολογίαν εὐθὺς ὑπὲρ αὐτῶν μελετᾶν. ὅτι δ' ἐν τοσούτῳ λόγῳ οὐδαμοῦ μάρτυρας παρέσχετο ὑμῖν ὡς ἡ διατιθεμένη τῷ πατρὶ τῷ ἐμῷ παρεγένετό που αὐτὸς ταύτην τὴν διαθήκην, ὥστ' εἰδέναι ταῦτα ὅτι ἀντίγραφά ἐστιν ὧν ὁ πατήρ μου διέθετο, ἡ ἀνοιχθὲν εἶδε τὸ γραμματεῖον ὃ φασι διαθέμενον ἐκείνον καταλιπεῖν, ταῦτα συμμέμνησθέ μοι.

3 ἀλλὰ μὴν ὅποτε μεμαρτύρηκεν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος τὰ ἐν τῷ γραμματεῖῳ γεγραμμένα, τὰς δὲ διαθήκας μὴ ἔχει<sup>b</sup> ἐπιδείξαι μήθ' ὡς ὁ πατήρ διέθετο ἡμῶν, μήθ' ὡς αὐτὸς εἶδε παραγενόμενος

<sup>b</sup> Z et Bekker (st. Leipzig ed.) cum G. H. Schaefer.

ἐχειν Bekker (Berlin ed.) cum libris.

suspicious that Stephanus would have recourse to this line of defence. See Or. 45 §§ 44 and 87.

οἱ γράφοντες... ὑπὲρ Φορμίωνος.] e. g. Demosthenes himself.

τὴν ἀπολογίαν... μελετᾶν.] 'prepare their defence.' μελετᾶν, like *meditari*, with which it is etymologically connected, is often used of 'rehearsing a part,' 'conning over a task,' 'practising for a performance.'

2. μάρτυρας ... ὡς ... παρεγένετο.] The plaintiff objects that Stephanus could not attest to a document being a copy of Pasion's 'will,' as he calls no evidence to prove he was present when the will was made (cf. Or. 45 § 26). But even supposing he had been present, it would not follow that he was familiar with the terms, as even the witnesses to a will would not necessarily know its contents, or be able to attest to its correspondence with any document purporting to be a copy

of the same. Cf. Isaeus Or. 4 (Nicostratus) § 13 τῶν διατιθεμένων οἱ πολλοὶ οὐδὲ λέγουσι τοῖς παραγινόμενοις ὃ τι διατίθεται, ἀλλ' αὐτοῦ μόνου, τοῦ καταλιπεῖν διαθήκας, μάρτυρας παρίστανται, τοῦ δὲ συμβαίνοντός ἐστι καὶ γραμματεῖον ἀλλαγῆναι καὶ τᾶντᾶτα τοῖς τοῦ τεθνεῶτος διαθήκαις μεταγραφῆναι. οὐδὲν γὰρ μᾶλλον οἱ μάρτυρες εἰσονται εἰ ἐφ' αἷς ἐκλήθησαν διαθήκαις, αὐταὶ ἀποφαίνονται (Becker, *Charicles*, Scene ix. note 18).

The inelegance of the triple repetition διατιθεμένων.. διέθετο.. διαθέμενον is perhaps open to criticism. (A. Schaefer, *Dem. u. s. Zeit.* iii. 2. 187.)

ἐκείνον] not αὐτόν, either because it refers to a person deceased, or to distinguish τὸν πατέρα from the subject of the sentence, Στέφανος. P.]

συμμέμνησθε.] A verb apparently never used elsewhere, except in late Greek.

3. ὅποτε.] See the note on Or. 34 § 83 and cf. inf. § 9 ad fin.

αὐταῖς\* διατιθεμένου τοῦ πατρὸς, πῶς οὐ περιφανῶς οὗτος ἐξελέγχεται τὰ ψευδῇ μεμαρτυρηκώς ;

4. Εἰ τοίνυν πρόκλησίν φησιν εἶναι καὶ μὴ μαρτυρίαν, οὐκ ἀληθῆ λέγει· ἅπαντα γὰρ ὅσα παρέχονται εἰς τὸ δικαστήριον προκαλούμενοι ἀλλήλους οἱ ἀντίδικοι, 1130 διὰ μαρτυρίας παρέχονται. οὐ γὰρ ἂν εἰδείηθ' ὑμεῖς εἴτ' ἐστὶν ἀληθῆ εἴτε ψευδῇ ἃ φασιν ἐκότεροι, εἰ μὴ τις καὶ τοὺς μάρτυρας παρέχοιτο. ὅταν δὲ παράσχηται, τοῖτοις πιστεύοντες ὑποδίκους οὖσι ψηφίζεσθε ἐκ τῶν λεγομένων καὶ μαρτυρουμένων ἃ ἂν ὑμῖν δοκῇ δίκαια 5 εἶναι. βούλομαι τοίνυν καὶ τὴν μαρτυρίαν ἐξελέγξαι, ὅτι οὐ πρόκλησις ἐστὶ, καὶ ὥς ἔδει μαρτυρεῖν αὐτοὺς, εἴπερ ἐγένετο ἡ πρόκλησις, ὥς οὐκ ἐγένετο. μαρτυροῦσι παρῆναι πρὸς τῷ διαιτητῇ Τισίᾳ, ὅτε προὔκαλεῖτο Φορμίων Ἀπολλόδωρον ἀνοίγειν τὸ γραμματεῖον, ὃ παρείχεν Ἀμφίας ὁ Κηφισοφῶντος κηδεστὴς, Ἀπολλόδωρον δ' οὐκ ἐθέλειν ἀνοίγειν. οὕτω μὲν ἂν μαρτυροῦντες ἐδόκουν ἀληθῆ μαρτυρεῖν· ἀντίγραφα δὲ τῶν διαθηκῶν τῶν Πασίωνος μαρτυρεῖν εἶναι τὰ ἐν τῷ γραμματείῳ ἃ παρείχετο Φορμίων, μήτε παρὰγενομένους ἐκείνῳ διατιθεμένῳ, μήτ' εἰδότας εἰ διέθετο, πῶς οὐ περιφανῶς ἀναισχυντία δοκεῖ ὑμῖν εἶναι ;

\* Bekker cum libris.

αὐτὰς Z cum Baitero.

§§ 4—5. *If my opponent urges that he is responsible for a Challenge only and not for a deposition, then he is not speaking the truth. Every Challenge necessarily involves a deposition, and I shall shew that he has deposed to something more than a mere Challenge, and I shall also criticize the terms of his deposition.*

4. *πρόκλησιν...μὴ μαρτυρίαν.* Or. 45 § 43 *προκλήσεως ἐστὶν ὑπεύθυνος, οὐχὶ μαρτυρίας.* Stephanus disclaims responsibility

for the deposition, but the plaintiff on his part insists that the deposition is inseparable from the Challenge, as no Challenge could be put in evidence at a trial unless attested by the deposition of a responsible witness.

5. *περιφανῶς ἀναισχυντία.* [‘*Malim περιφανῶς ἀναισχυντίας.*’ Dobree. For *περιφανῶς* cf. § 3 ; the corresponding substantive *περιφάνεια* has occurred in Or. 45 § 2.

- 6 Ἄλλα μὴν εἰ φησὶ Φορμίωνος λέγοντος πιστεύειν ταύτ' ἀληθῆ εἶναι, τοῦ αὐτοῦ ἀνδρός ἐστὶ πιστεύειν τε λέγοντι τούτῳ ταῦτα καὶ κελεύοντι μαρτυρεῖν. οἱ δέ γε νόμοι οὐ ταῦτα λέγουσιν, ἀλλ' ἂν ἂν<sup>4</sup> εἰδῇ τις καὶ οἷς ἂν παραγένηται πραττομένοις, ταῦτα μαρτυρεῖν κελεύουσιν ἐν<sup>5</sup> γραμματείῳ γεγραμμένα, ἵνα μὴτ' ἀφελεῖν ἐξῇ μηδὲν μήτε προσθεῖναι τοῖς γεγραμμένοις.
- 7 ἀκοὴν δ' οὐκ ἐῷσι ζῶντος μαρτυρεῖν, ἀλλὰ τεθνεώτος. τῶν δὲ ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν γεγραμμένην ἐν τῷ<sup>6</sup> γραμματείῳ<sup>7</sup> καὶ ἀπὸ τῆς αὐτῆς ἐπισκήψεως τήν τε μαρτυρίαν καὶ ἐκμαρτυρίαν ἀγωνίζεσθαι 1131

<sup>4</sup> δ ἂν Bekker. ἂν Z cum Bekkero (ad Or. 1 § 3). ἂν Z prima manu.

<sup>5</sup> ἐν Bekker.

<sup>6</sup> om. Z cum Reiskio.

ἐν τῷ Z cum ΣΦ.

§§ 6—8. If Phormio's assertion was the defendant's only reason for deposing to the document being a copy of Pasion's will, then he has been guilty of giving hearsay evidence which is false and which he has given in a manner contrary to the law.

7. ἀκοὴν...μαρτυρεῖν.] 'to give hearsay evidence.' Isaeus Or. 6 (Philoctemon) § 54 οἷς μὴ παρεγένετο, ἀλλ' ἤκουσέ τις, ἀκοὴν μαρτυρεῖν. Dem. Or. 57 § 4.

τῶν ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν.] The witness, whether he had been present at the preliminary examination or not, was compelled to attend at the trial itself to confirm his evidence, unless he was either ill or abroad, in which case his evidence might be taken by a commission. Isaeus Or. 3 (Pyrrhus) §§ 20—27, esp. § 20 παρὰ τῶν ἀσθενούντων ἢ ἀποδημεῖν μελλόντων θῶν τις ἐκμαρτυρίαν ποιῆται... Harpocration, ἐκμαρτυρία· διαφέρει τῆς μαρτυρίας, ὅτι

ἡ μὲν μαρτυρία τῶν παρόντων ἐστίν, ἡ δ' ἐκμαρτυρία τῶν ἀπόντων. σαφέστατα δὲ περὶ τούτων διδάσκουσι Δημοσθένης τε ἐν τῷ κατὰ Στεφάνου καὶ Δελνάρχου.

ἀπὸ τῆς αὐτῆς ἐπισκήψεως.] The laws enact 'that the evidence of the absent witness shall come before the court under the same impeachment as that of the witnesses attesting the same, in order that, if the absent witness acknowledge his evidence, he may be liable to a trial for false testimony, and if he disown it, then the attesting witnesses.' For ἐπίσκηψις, the process of bringing an action for false witness, cf. Arist. Pol. II. 12. 11 Χαρόνδρου ἴδιον οὐδὲν ἐστὶ κλήναι αἱ δίκαι τῶν ψευδομαρτυριῶν, πρῶτος γὰρ ἐποίησε τὴν ἐπίσκηψιν. Or. 47 §§ 1 and 5 Θεόφνημος αὐτοῖς ὡς ἀληθῆ μεμαρτυρηκόσιν οὐκ ἐπεσκέψατο οὐδ' ἐπεξέρχεται τῶν ψευδομαρτυριῶν. Or. 29 §§ 7, 41 and Or. 34 § 46 note.



ἄμα, ἢν ἔαν μὲν ἀναδέχῃται ὁ ἐκμαρτυρήσας, ἐκείνος ὑπόδικος ἢ τῶν ψευδομαρτυριῶν, ἔαν δὲ μὴ ἀναδέχῃται, οἱ μαρτυρήσαντες τὴν ἐκμαρτυρίαν. Στέφανος τοῖνυν οὕτως, οὗτ' εἰδὼς διαθήκας καταλιπόντα τὸν πατέρα ἡμῶν, οὔτε παραγενόμενος πώποτε διατιθεμένῳ τῷ πατρὶ ἡμῶν, ἀκούσας δὲ Φορμίωνος, μεμαρτύρηκεν ἀκοὴν τὰ ψευδῆ τε καὶ παρὰ τὸν νόμον. καὶ ταῦθ' ὅτι ἀληθῆ λέγω, αὐτὸν ὑμῖν τὸν νόμον ἀναγνώσεται.

### ΝΟΜΟΣ.

[Ἄκοὴν εἶναι μαρτυρεῖν τεθνεῶτος, ἐκμαρτυρίαν δὲ ὑπερορίου καὶ ἀδυνάτου.]

9 Ὡς τοῖνυν καὶ παρ' ἑτερον νόμον μεμαρτύρηκεν ἐπιδειξάμενος ὑμῖν βούλομαι, ἵνα εἰδῇτε ὅτι μεγάλων ἀδικημάτων οὐκ ἔχων καταφυγὴν ὁ Φορμίων, πρόφασιν

Ἔ et Bekker (st. Leipsig ed.) cum Reiskio. ἔκμαρτυρήσαντες Bekker (Berlin ed.) cum libris.

ἔαν μὴ ἀναδέχῃται.] 'if he does not acknowledge it' e.g. on the ground of its being forged or incorrectly copied. Isaeus Or. 3 §§ 28, 24 tells us 'it was usual to select persons of good character to receive such evidence and to have as many of them as possible.' (C. R. Kennedy in Dict. Ant. s. v. ἐκμαρτυρία.) Cf. Schol. on Aeschin. Fals. Leg. § 19 *ei ἐπανελθὼν ἐκείνος* (sc. ὁ ἐκμαρτυρήσας) *εἶπεν, ὅτι οὐδὲν εἶπον, ἐκρίνοντο οὗτοι* (sc. οἱ μαρτυρήσαντες) *ὡς συκοφάνται.*

§§ 9—10. The defendant has also given evidence contrary to another law. Under cover of the testimony of the defendant and his friends, Phormio has virtually given evidence in his own cause, which is illegal; and the law declares that a suit for false testimony shall be main-

tainable against a person on the ground of his having given evidence contrary to the law.

9. πρόφασιν λαβὼν τὴν πρόκλησιν.] In Or. 45 § 19 (which should be compared with the whole of the present sentence) this Challenge is denounced as a παραπέτασμα. So below, *προσστησάμενος τοὺς τοὺς* 'putting these men forward as an excuse.' For the favourite antithesis between λόγος and ἔργον cf. Thucydides *passim*. The historian possibly caught this mannerism from his master Antiphon (Or. 5 § 5 οὐ γὰρ δίκαιον οὐτε ἔργῳ ἀμαρτάντα διὰ ῥήματα σωθῆναι οὐτε ἔργῳ ὁρθῶς πράξαντα διὰ ῥήματα ἀπολέσθαι· τὸ μὲν γὰρ ῥῆμα τῆς γλώσσης ἀμαρτημὰ ἐστὶ τὸ δ' ἔργον τῆς γνώμης. Cf. *ib.* § 84 and Or. 6 § 47 οἱ μὲν ἄλλοι ἄνθρωποι τοῖς ἔργοις τοὺς λόγους

λαβὼν λόγῳ τὴν πρόκλησιν, ἔργῳ αὐτὸς αὐτῷ μεμαρ-  
τύρηκε προστησάμενος τούτους, δι' ὧν οἱ μὲν δικασταὶ  
ἐξηπατήθησαν ὡς ἀληθῆ τούτων μαρτυρούντων, ἐγὼ  
δὲ ἀπεστερήθην ὧν ὁ πατήρ μοι κατέλιπε χρημάτων  
καὶ τοῦ δίκην λαβεῖν περὶ ὧν ἀδικοῦμαι. μαρτυρεῖν  
γὰρ οἱ νόμοι οὐκ ἐῷσιν αὐτὸν αὐτῷ οὔτ' ἐπὶ ταῖς  
γραφαῖς οὔτ' ἐπὶ ταῖς δίκαις οὔτ' ἐν ταῖς εὐθύναις. ὁ  
τοίνυν Φορμίων αὐτὸς αὐτῷ μεμαρτύρηκεν, ὅποτε  
φασὶν οὗτοι ἀκούσαντες ἐκείνου ταῦτα μεμαρτυρη-  
<sup>10</sup> κέναι. ἵνα δὲ εἰδῇτε ἀκριβῶς, αὐτὸν τὸν νόμον μοι  
ἀνάγνωθι.

### NOMOS.

[Τοῖν ἀντιδίκου ἐπάναγκες εἶναι ἀποκρίνασθαι  
ἀλλήλοις τὸ ἐρωτώμενον, μαρτυρεῖν δὲ μή.]

Σκέψασθε τοίνυν τουτονὶ τὸν νόμον, ὃς κελεύει  
ὑποδίκους εἶναι τῶν ψευδομαρτυριῶν καὶ κατ' αὐτὸ 1132  
τοῦτο, ὅτι μαρτυρεῖ παρὰ τὸν νόμον.

ἐλέγχουσιν, οὗτοι δὲ τοῖς λόγοις  
τὰ ἔργα ζητοῦσιν ἀπίστα καθιστά-  
σαι).

τούτων] is redundant after δι' ὧν, that is, μαρτυρούντων might have agreed with ὧν, instead of a new clause introduced with a genitive absolute. In the next line Dobree would read ὧν θ' ὁ πατήρ... καὶ τοῦ δίκην λαβεῖν, κ.τ.λ. γραφαῖς... δίκαις.] See note on Or. 54 § 2.—εὐθύναις, 'audits,' 'examinations on surrendering office,' as opposed to δοκιμασία 'the enquiry preliminary to taking office.'

10. τοῖν ἀντιδίκου—μή.] 'that both parties be compelled to answer one another's questions, but that neither be allowed to be a witness in his own cause.' On ἐρώτησις see Aristot. Rhet. III. 18 and for examples of Lysias Or. 12 §§ 24—26, Or. 22

§ 5; Or. 13 §§ 30—33. Dem. de cor. § 52, Plato Apol. p. 25, Isaeus Or. 11 § 4. 'A favourite instrument of debate with speakers in the public assembly and law courts is the interrogation of the adversary. The object of this is to enforce an argument; or to take the adversary by surprise and extract from him an unguarded admission; or to place him in an awkward dilemma, by shaping your question in such a way, that he must either by avowing it admit something which his antagonist wishes to establish, or by refusing seem to give consent by his silence to that which the questioner wishes to insinuate; or to gain some similar advantage.' (Cope's Introduction to Ar. Rhet. p. 362.)

## ΝΟΜΟΣ.

[Ἔστω δὲ καὶ ὑπόδικος τῶν ψευδομαρτυριῶν ὁ μαρτυρήσας αὐτοῦ τούτου<sup>h</sup>, ὅτι μαρτυρεῖ παρὰ τὸν νόμον· καὶ ὁ προβαλλόμενος<sup>i</sup> κατὰ ταῦτά.]

II Ἔτι τοίνυν κἂν ἀπὸ τοῦ γραμματείου γνοίῃ τις, ἐν ᾧ ἡ μαρτυρία γέγραπται, ὅτι τὰ ψευδῆ μεμαρτύρηκεν. λελευκωμένον τε γάρ ἐστι καὶ οἰκοθεν κατεσκευ-

<sup>h</sup> ἴμμο δι' αὐτοῦ τούτου vel αὐτῷ τούτῳ<sup>i</sup> Z.

<sup>i</sup> Bekker cum Reiskio.

προβαλλόμενος Z cum libris.

αὐτοῦ τούτου] = κατ' αὐτὸ τοῦτο above.

ὁ προβαλλόμενος κατὰ ταῦτά.] The person who produced the false witness, *προὔβαλετο* or *προὔστησεν*, was liable to what was called a *δικὴ κακοτεχνιῶν* for conspiring to defeat the ends of justice. Or. 47 § 1 τὸν προβαλλόμενον ὑπόδικον ἐχθρῶν κακοτεχνιῶν.

§ 11. That the defendant's evidence is false may be concluded from the material on which it is written.

λελευκωμένον καὶ οἰκοθεν κατεσκευασμένον.] The plaintiff curiously argues the falsehood of the defendant's deposition from the nature of the material from which it is inscribed. The document, he points out, is 'whitened, and must have been brought from home purposely prepared.' This would have been proper enough for a deposition attesting to the facts of the past, in which case there is time to draw up an elaborate document, whereas a deposition purporting to attest a Challenge (evidence to which might be given by any duly qualified person even accidentally present) would naturally be rapidly written on the spot ἐν μάλῃ, i. e. on a waxen tablet, which would allow of any addition or erasure

being made at the request of the witnesses before they attested it. 'The difference between these methods,' as C. R. Kennedy remarks, 'was much the same as between writing with a pen on paper and with a pencil on a slate.' (Dict. Ant. s. v. *μαρτυρία*.) For λελευκωμένον cf. Dem. Or. 24 (Timocr.) § 23 *Lex. ὁ τιθεὶς τὸν καινὸν νόμον, ἀναγράφας εἰς λεύκωμα, ἐκτιθέτω πρόσθε τῶν ἐπωνύμων*. Bekker's Anecd. (λέξεις ῥητορικαί) p. 277 λεύκωμά ἐστι πίναξ γύψῳ ἀηλιμμένος, πρὸς γραφὴν πολιτικῶν γραμμάτων ἐπιτηδεῖος. (We may compare the Roman *album* and contrast the *black boards* of our class-rooms.) For ἐν μάλῃ id. p. 278. μάλῃ μεμαλαγμένος κηρός ἢ ἄλλο τι τοιοῦτον, ᾧ τὰ γραμματεῖα πράττεται. Pollux: ὁ δὲ ἐνὶ τῇ πινυακίδι (sc. καλεῖται) κηρός ἢ μάλῃ ἢ μάλα. Ἡρόδοτος μὲν γὰρ κηρὸν εἰσηκεν, Κρατίδης δὲ ἐν τῇ Πυλινῇ μάλῃ ἐφη, Ἀριστοφάνης δὲ ἐν τῷ Γηρυτάδῃ τὴν μάλῃ ἐκ τῶν γραμματέων ἥσθιον. Harpoer. μάλῃ ὁ μεμαλαγμένος κηρός. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. Ἰππώναξ, ἔπειτα μάλῃ τὴν τρώπιν παραχρίσας and similarly Hesychius and Suidas. (Becker's *Charicles*, Scene ix. note 12 and Beels, *diatribe* p. 116—119).

οἰκοθεν κατεσκευασμένον] is a

ασμένον. καίτοι τοὺς μὲν τὰ πεπραγμένα μαρτυροῦν-  
τας προσήκει οἰκοθεν τὰς μαρτυρίας κατεσκευασμένας  
μαρτυρεῖν, τοὺς δὲ τὰς προκλήσεις μαρτυροῦντας τοὺς  
ἀπὸ ταῦτομάτου προστάνας ἐν<sup>k</sup> μάλῃ γεγραμμένην  
τὴν μαρτυρίαν, ὡ<sup>l</sup>, ἀν<sup>1</sup> τι προσγράψαι ἢ ἀπαλεῖψαι  
βουληθῇ, ῥάδιον ἦ<sup>m</sup>.

12 Οὐκοῦν κατὰ μὲν ταῦτα πάντα ἐξελέγχεται τὰ  
ψευδῇ μεμαρτυρηκῶς καὶ παρὰ τὸν νόμον βούλομαι

<sup>k</sup> Z cum Reiskio.

καὶ ἐν Bekker.

<sup>1</sup> ἐλ...βουληθῇ Z cum libris. 'malim ἐβουλήθην vel βουληθεῖν'  
Sauppe.

<sup>m</sup> ἦ H. Wolf.

ἦν Z.

'pregnant' expression, equivalent in sense to οἰκοι κατεσκευασμένων καὶ οἰκοθεν ἀπηγγελμένων. Similarly below, where Reiske unnecessarily proposes οἰκοθεν ἐπιφερομένης τὰς μαρτυρίας κατεσκευασμένας μαρτυρεῖν. For the general drift of the argument and its imputation of deliberate design of Cic. Phil. II. § 85 *unde diadema! non enim abiectum sustuleras, sed attuleras domo meditatum et cogitatum scelus*.

τοὺς προστάνας.] These words are rather obscure. Kennedy renders *προστάνας* as equivalent to *παρόντας*. Rather, perhaps, 'who stand forward voluntarily.' P.]

ἀν βουληθῇ.] The *vulgata lectio* used to be ἐλ, altered by G. H. Schaefer into ἐάν to avoid the anomaly of ἐλ with the subjunctive, a construction described as 'poetical' in Bekker's *Anecdota* (p. 144); see, however, the commentators on Thuc. VI. 21. 1 ἐλ ξυστῶσιν, Hermann's *Opuscula* I. 280 and Kühner's *Gk. Gr.* § 46, 11 p. 904. Isaëus Or. 11 (Hagnias) § 12 has μὴδ' ἐλ καὶ τετελευτηκότες ὦσω and in Dem. Or. 24 §§ 79 and 93 we

have the ordinary indicative followed by the anomalous subjunctive, ἐλ τινι...προστετιμῆται...ἢ τὸ λοιπὸν προστιμῆθῃ, whereas in § 207 we find the regular construction ἐλ τινι προστετιμῆται δεσμου κἀν τὸ λοιπὸν τινι προστιμῆσθε.

§§ 12—17. Further, my father made no will at all, nor do the laws allow it, laws which bind every citizen of Athens without exception. It was not until ten years after my father's death that Phormio obtained the citizenship; not foreseeing this, how could my father have insulted our family, cast contempt on your bounty and disregarded the laws by giving his own wife in marriage to Phormio, and that by a will which he was legally incompetent to make? The law forbids a man's making a will if he have male issue lawfully begotten.—Again, the law only allows those who are not 'adopted' to dispose of their property by will, and my father was a citizen by 'adoption' only. Lastly, it does not permit a person to make a will if he is of unsound mind, and the terms of the alleged 'will' which give

δ' ὑμῖν καὶ αὐτὸ τοῦτο ἐπιδείξαι, ὥς οὔτε διέθετο ὁ πατήρ ἡμῶν διαθήκην οὐδεμίαν οὐθ' οἱ νόμοι ἐώσιν. εἰ γὰρ τις ἔροιτο ὑμᾶς καθ' ὁποίους νόμους δεῖ πολιτεύεσθαι ἡμᾶς, δηλὸν ὅτι ἀποκρίναισθ' ἂν κατὰ τοὺς κειμένους. ἀλλὰ μὴν οἷ γε νόμοι ἀπαγορεύουσι μὴδὲ νόμον ἐξεῖναι ἐπ' ἀνδρὶ<sup>n</sup> θείναι, ἂν μὴ τὸν αὐτὸν ἐφ' 13 ἅπασιν Ἀθηναίοις. οὐκοῦν ὁ μὲν νόμος οὕτως τοῖς αὐτοῖς νόμοις πολιτεύεσθαι ἡμᾶς κελεύει καὶ οὐκ ἄλλοις. ὁ δὲ πατήρ ἐτελεύτησεν ἐπὶ Δυσσικῆτου ἄρχοντος, ὁ δὲ Φορμίων Ἀθηναῖος ἐγένετο ἐπὶ Νικοφύμου ἄρχοντος, δεκάτῳ ἔτει ὕστερον ἢ ὁ πατήρ ἡμῶν ἀπέθανεν. πῶς ἂν οὖν μὴ εἰδὼς ὁ πατήρ αὐτὸν Ἀθηναῖον ἐσόμενον ἔδωκεν ἂν τὴν ἑαυτοῦ γυναῖκα, καὶ προεπηλάκισε μὲν ἂν ἡμᾶς, κατεφρόνησε δ' ἂν τῆς δωρεᾶς 1133 ἧς παρ' ὑμῶν ἔλαβε, παρείδε δ' ἂν τοὺς νόμους; πότερα δὲ κάλλιον ἦν αὐτῷ ζῶντι πράξαι ταῦτα, εἴπερ

<sup>n</sup> Bekker (Berlin ed.). ἐπ' ἀνδρὶ ἐξεῖναι Z et Bekker (st. Leipzig ed.) cum Σ.

my father's widow to Phormio are inconsistent with the terms of the 'lease,' and argue the absence of sound mind and therefore my father's incompetence to make any will whatever.

12. κειμένους...θεῖναι.] κείμαι is constantly borrowed as a perfect passive to τίθημι, while τέθειμαι is almost invariably used as a deponent perfect. Thus the usage of the perfect in the best writers would be:

ὁ νομοθέτης τέθεικε τὸν νόμον.

ἡ πόλις τέθειται τὸν νόμον.

ὁ νόμος κεῖται.

(See further in notes on Or. 34 § 16, Or. 39 Argument, line 23 and on Isocr. ad Dem. § 36.)

μὴδὲ νόμον...ἐπ' ἀνδρὶ θείναι.]

Just as a *privilegium* was forbidden by Roman law, so at Athens legislation expressly affecting a particular individual, whether in his interest or to

his detriment, was not allowed, except in the single instance of ostracism; cf. the law quoted in Andocides, *de mysteriis* § 87 μὴδὲ ἐπ' ἀνδρὶ νόμον ἐξεῖναι θείναι, ἐὰν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθηναίοις, ἐὰν μὴ ἐξακισχίλοις δόξῃ κρύβδην ψηφισμένοις, and similarly in Dem. Or. 24 (Timocrates) § 59.

13. ὁ μὲν νόμος...ὁ δὲ πατήρ κ.τ.λ.] The sentence is rather loosely written, and the sense might have been brought out better by some such arrangement as this: ὁ μὲν νόμος...κελεύει, ὁ δὲ πατήρ Φορμίῳ οὕτω Ἀθηναῖῳ γενομένῳ ἔδωκε τὴν ἑαυτοῦ γυναῖκα· ἐτελεύτησε γὰρ κ.τ.λ. A similar looseness of structure may be noticed in §§ 25 and 15—ἐπὶ Δυσσικῆτου B.C. 370. ἐπὶ Νικοφύμου B.C. 360.

τῆς δωρεᾶς.] so. τῆς πολιτείας. Or. 36 § 30.

ἐβούλετο, ἡ ἀποθανόντα διαθήκας καταλιπεῖν, ἃς οὐ κύριος ἦν; ἀλλὰ μὴν αὐτῶν τῶν νόμων ἀκούσαν-  
14 τες, γνώσεσθε ὡς οὐ κύριος ἦν διαθέσθαι. λέγε τὸν νόμον.

### NOMOS.

[Ὅσοι μὴ ἐπεποίητο, ὥστε μήτε ἀπειπεῖν μήτ' ἐπιδικάσασθαι, ὅτε Σόλων εἰσῆει τὴν ἀρχήν, τὰ ἑαυτοῦ διαθέσθαι εἶναι, ὅπως ἂν ἐθέλῃ, ἂν μὴ παῖδες ὥσι γνήσιοι ἄρρενες, ἂν μὴ μανιῶν ἢ γήρωσ ἢ φαρμάκων ἢ νόσου ἔνεκεν, ἢ γυναικὶ πειθόμενος, ὑπὸ τούτων

14. ὅσοι μὴ ἐπεποίητο κ.τ.λ.] 'whosoever had not been adopted, when Solon became Archon, and thereby remained unable either to renounce or to claim his inheritance, shall be allowed to dispose of his own property at his pleasure, provided he have no male issue lawfully begotten.' Cf. Isaëus Or. 6 (Philoctemon) § 28 τοῖς φύσει υἱέσιν αὐτοῦ οὐδεὶς οὐδενὶ ἐν διαθήκῃ γράφει δόσιν οὐδεμίαν, διότι ὁ νόμος αὐτὸς ἀποδίδωσι τῷ υἱεὶ τὰ τοῦ πατρὸς καὶ οὐδὲ διαθέσθαι ἐᾷ δὲ αὐτὸν ὥς παῖδες γνήσιοι.

The law is quoted to prove that Pasion had no right to make a will, (1) because he had male issue lawfully begotten (sc. Apollodorus). But it will be noticed that the law does not forbid such persons from making any will whatever, but simply enacts that those who have no male issue may dispose of their property as they please. Pasion was not debarred by this law from making a will, but was not allowed to make any disposition he chose, since (as in our law of entail) the right to the property was secured to the son.

Again (2), Pasion was a citizen

by 'adoption,' whereas this law implies that no 'adopted' person could dispose of his property as he pleased. But it will be observed on the other side, that the plaintiff has deliberately confounded two different senses of ποιεῖσθαι (1) 'to adopt into a family' and (2) 'to present with the citizenship.' ἐπεποίητο refers to 'family adoption' and the plaintiff argues as though it meant the same as ἐπεποίητο πολλῶν.

ἀπειπεῖν...ἐπιδικάσασθαι.] Or. 52 (Callippus) § 19 οὐτε ἀμφισβητήσαντα οὐτε ἀπειπόντα περὶ τοῦ ἀργυρίου. ἀπειπεῖν may be paralleled by the phrase in Roman law *eiurare hereditatem*.

μανιῶν] genitive, like the subsequent substantives, governed by ἔνεκα at the end of the clause. 'Unless his mind is impaired by lunacy, or dotage, or by drugs or disease.' K.

[The plural μανίαι means, as usual, 'mad fits,' 'delusions.' P.]

ὑπὸ τούτων του παρανόων.] A certain correction of the old reading ὑπὸ τούτων τοῦ παρανόμων. Cf. Isaëus Or. 9 ad fin. εἰ τοῦτον ἐποίησατο υἱὸν οὐ τῷ πατρὶ πολεμώτατος ἦν, πῶς οὐ

του παρανοῶν, ἡ ὑπ' ἀνάγκης, ἡ ὑπὸ δεσμοῦ καταληφθεῖς.]

- 15 Τοῦ μὲν νόμου τοίνυν ἀκηκόατε, ὅς οὐκ ἔα διαθήκας διαθέσθαι, ἐὰν παῖδες ὡς γνήσιοι. οὗτοι δὲ φασὶ ταῦτα διαθέσθαι τὸν πατέρα, ὡς δὲ παρεγένοντο οὐκ ἔχουσιν ὑποδείξαι<sup>ο</sup>. ἄξιον δὲ καὶ τότε ἐνθυμηθῆναι, ὅτι ὅσοι μὴ ἐπεποιήντο, ἀλλ' ἦσαν πεφυκότες γνήσιοι, τοῦτοις ὁ νόμος δίδωσιν, ἐὰν ἄπαιδες ὦσι, διαθέσθαι τὰ ἑαυτῶν. ὁ τοίνυν πατὴρ ἡμῶν ἐπεποιήτο ὑπὸ τοῦ δήμου πολίτης, ὥστε οὐδὲ κατὰ τοῦτο ἐξῆν αὐτῷ διαθέσθαι διαθήκην, ἄλλως τε καὶ περὶ τῆς γυναικὸς, ἥς οὐδὲ κύριος ἐκ τῶν νόμων ἦν, παῖδες τε
- 16 ἦσαν αὐτῷ. σκέψασθε δὲ καὶ διότι οὐδ' ἂν ἄπαις τις ἦ, κύριός ἐστι τὰ αὐτοῦ διαθέσθαι, ἐὰν μὴ εὖ φρονῇ· νοσοῦντα δὲ ἢ φαρμακῶντα ἢ γυναικὶ πειθόμενον ἢ

<sup>ο</sup> Z et Dind. cum P. Wesseling.

ὅπὸ τούτων τοῦ παρα-

νόμων libri. ἡ ὑπὸ τῶν του παρανόμων Bekker cum Reiskio.

<sup>ο</sup> ἐπιδείξαι Z. ὑποδείξαι Dind. cum Σ (prima manus).

δόξει τοῖς ἀκούσας παρανοεῖν ἢ ὑπὸ φαρμάκων διεφθάρθαι; and *ib.* Or. 6 (Philoctemon) § 9 οὐτοὶ δὲ νόμος κοινὸς ἅπασιν κείμενος, ἐξεῖναι τὰ ἑαυτοῦ διαθέσθαι, ἐὰν μὴ παῖδες ὡς γνήσιοι ἄρρενες, ἐὰν μὴ ἀρα μανεῖς ἢ ὑπὸ γήρωις ἢ δι' ἄλλο τι τῶν ἐν τῷ νόμῳ παρανοῶν διαθῆται. — On φαρμακῶν see further in § 16 φαρμακῶντα. — νόσου ἕνεκεν can only refer to cases where the mind was enfeebled, for bodily infirmity was of course in itself no bar to the validity of a will (Becker, *Charicles*, Scene ix. note 19).

16. διότι.] In the same sense as ὅτι, for which it is not unfrequently used, especially by Isocrates when a *hiatus* is thereby avoided, e.g. Isocr. *Lochites* § 7 ἐνθυμουμένους ὅτι followed by καὶ διότι. Isocr. *Paneg.* § 48 n.

εὖ φρονῇ.] *Isaeus* Or. 7 § 1 εἰ τις αὐτὸς ζῶν καὶ εὖ φρονῶν ἐποιήσας, contrasted with εἰ τις τελευτήσας μελλὼν διέθετο, εἰ τι πάθοι, τὴν οὐσίαν ἐτέρῳ. *Eur.* *Ion* 520, εὖ φρονεῖς μὲν; i.e. ἀρα ἐμφρων εἰ; — On νοσοῦντα see above, § 14 νόσου ἕνεκεν.

φαρμακῶντα.] *Harpoc.* Δημοσθένους ἐν τῷ κατὰ Στεφάνου. ἔστι δὲ φαρμακῶν ὁ ὑπὸ φαρμάκων βεβλαμμένος, ὡς καὶ Θεόφραστος ἐν τῷ Νόμων ὑποσημαίνει.

[φαρμακῶν is one of a class of verbs implying mental or bodily affection, e.g. *λημᾶν*, 'to have bleary eyes,' *ποδαγρᾶν*, *χαλαζᾶν*, *φονᾶν*, 'to be blood-thirsty,' *θανάτῶν*, 'to have a desire for death,' *Plat. Phaedo* p. 64 n, *τομᾶν* 'to require the knife' &c. The verbs themselves are less commonly used than their participles. P.]

ὑπὸ γήρως ἢ ὑπὸ μανιῶν ἢ ὑπὸ ἀνάγκης τινὸς κατα-  
ληφθέντα ἄκυρον κελεύουσιν εἶναι οἱ νόμοι. σκοπεῖτε  
δὴ<sup>4</sup>, εἰ δοκοῦσιν ὑμῖν εὖ φρονούντος ἀνδρὸς εἶναι αἱ 1134  
17 διαθήκαι, ἃς φασὶ διαθέσθαι οὗτοι τὸν πατέρα. μὴ  
πρὸς ἄλλο δέ τι παράδειγμα σκέψησθε ἢ πρὸς τὴν  
μίσθωσιν, εἰ δοκεῖ ὑμῖν ἀκόλουθον εἶναι τῷ τὴν τέχνην  
μὴ ἐξουσίαν δόντι ἐν τῷ αὐτῷ ἡμῖν ἐργάζεσθαι, τούτῳ  
τὴν γυναῖκα δοῦναι τὴν αὐτοῦ καὶ τῶν παιδῶν ἑᾶσαι  
κοινωνὸν αὐτῷ γενέσθαι. καὶ μὴ θαναμάζετε, εἰ τᾶλλα  
σκευωρουμένους αὐτοὺς τὰ ἐν τῇ μισθώσει τοῦτο παρ-  
έλαθεν. ἴσως μὲν γὰρ οὐδὲ προσεῖχον ἄλλῳ οὐδενὶ ἢ  
τῷ τὰ χρήματα ἀποστερήσαι καὶ τῷ προσοφείλοντα  
τὸν πατέρα ἐγγράψαι· εἴτα δὲ<sup>5</sup> οὐδὲ ἐδόκουν ἐμὲ οὕτω  
δεινὸν ἔσσεσθαι ὥστε ταῦτα ἀκριβῶς ἐξετάσαι.

<sup>4</sup> Bekker cum correcto Σ.

δὲ Z cum Σ (prima manu).

<sup>5</sup> εἴτα δὲ Z, Dind., Bekker (st. Leipzig ed.) cum Σ et γρ. Φ.  
εἴτα Bekker (Berlin ed.).

εἰ δοκοῦσιν εὖ φρονούντος κ.τ.λ.]  
It is curious to find the plaintiff  
setting up this suggestion of  
lunacy when in another speech,  
Or. 49 (Timoth.) § 42, delivered  
at an earlier date, he describes  
his father as not only giving  
him a written statement of  
debts due, but also, in his last  
illness, telling him and his  
brother the details of each par-  
ticular sum, the name of the  
debtor, and even the purpose  
for which the money was lent.

He might have turned his  
argument to more account, if,  
instead of insinuating that the  
terms of the alleged will sug-  
gested that his father was of  
unsound mind, and therefore  
legally incompetent to make  
any will at all, he had urged  
that, his father having been of  
sound mind up to the day of  
his death, the 'insane' pro-  
visions of the will betrayed it to

be a forgery.

17. ἀκόλουθον εἶναι...τῷ δόντι...  
τούτῳ δοῦναι.] The juxtapositions  
of these two datives, referring  
to two different persons, is ex-  
tremely harsh. The order is :  
δοκεῖ ὑμῖν ἀκόλουθον εἶναι (Πασί-  
ωνι), τῷ μὴ δόντι ἐξουσίαν ἐργά-  
ζεσθαι τὴν τέχνην ἐν τῷ αὐτῷ  
ἡμῖν, δοῦναι τούτῳ (sc. Φορμίωνι)  
τὴν γυναῖκα τὴν αὐτοῦ; 'Is it  
consistent for one who refused  
Phormio permission to carry on  
business in partnership with  
us, actually to give Phormio his  
own wife?'

τῶν παιδῶν κοινωνὸν αὐτῷ.]  
Kennedy: 'partner with him-  
self in paternity' (by marrying  
his widow). For σκευωρουμένους  
cf. Or. 45 § 5.

ἐγγράψαι.] Specially used of  
'registering' a man as debtor.  
Cf. Or. 53 § 14.

οὕτω δεινόν.] 'They little  
dreamt I should be clever



18. Σκέψασθε τοίνυν καὶ τοὺς νόμους, παρ' ὧν κελεύουσι τὰς ἐγγύας ποιεῖσθαι, ἵν' εἰδῆτε καὶ ἐκ τούτων ὡς κατεσκευασμένης διαθήκης ψευδῆς μάρτυς γέγονε Στέφανος οὕτως. λέγε<sup>a</sup>.

### ΝΟΜΟΣ.

[Ἦν ἂν ἐγγυήσῃ ἐπὶ δίκαιοις δάμαρτα εἶναι ἡ πατήρ ἢ ἀδελφὸς ὁμοπάτωρ ἢ πάππος ὁ πρὸς πατρός, ἐκ ταύτης εἶναι παῖδας γνησίους. ἐὰν δὲ μηδεὶς ᾗ τούτων, ἐὰν μὲν ἐπὶ κληρὸς τις ᾗ, τὸν κύριον ἔχειν, ἐὰν δὲ μὴ ᾗ<sup>b</sup>, ὅτῳ ἂν ἐπιτρέψῃ, τοῦτον κύριον εἶναι.]

19. Οὗτος μὲν τοίνυν ὁ νόμος οὗς ἐποίησε κυρίου εἶναι, ἀκηκόατε<sup>c</sup> ὅτι ὃ οὐδεὶς ἦν τούτων τῇ μητρὶ, οἱ

<sup>a</sup> Bekker.

om. Z cum Σ.

<sup>b</sup> Bekker cum libris.

om. Z.

enough to examine all these questions thoroughly.' This passage has been quoted as an indication of the plaintiff's consciousness of his own oratorical skill, and as a presumption in favour of the view that Apollodorus is himself the writer of the speeches delivered by him which have come down to us among the orations of Demosthenes. (A. Schaefer, *Dem. u. s. Zeit.* III. 2. 192.)

§§ 18—21. *The forgery of the will is also proved by the law of betrothals, which provides that a woman may be affianced for lawful wedlock by her guardians, i. e. certain near relations, such as father, brother or grandfather. As none of these are in existence, and you may be sure that the other side would have produced them or pretended to do so to suit their purpose, it follows that my mother was an 'heiress,' and the law declares that the son of an heiress, when he comes of age, shall be his mother's guardian. Now I was abroad*

*on public service (and therefore of full age) when Phormio married my mother (and he did so without obtaining the consent of myself, her guardian).*

18. σκέψασθε τοὺς νόμους.] The accusative after the principal verb, where in English we should prefer making it the nom. of the subordinate clause. Cf. Or. 45 § 24. Kennedy partially keeps up the Greek construction by rendering it thus: 'look now at the laws, (to see) from whom they require betrothals to be obtained.'

ἐγγύας.] The betrothal (ἐγγύσις) was made by the natural or legal guardian of the girl, in the presence of the relatives of both parties. 'All children born from a marriage legally contracted in this respect were γνήσιοι, and consequently, if sons, ἱσόμενοι, or entitled to inherit equally.' (Whiston in *Dict. Ant. s. v. Matrimonium*, K. F. Hermann, *Privatalt.* § 30, 7 and § 65, 15.)

ἀντίδικοί μοι αὐτοὶ μεμαρτυρήκασιν. εἰ γὰρ ἦν, παρεί-  
 χοντ' ἄν. ἡ μάρτυρας μὲν ψευδεῖς οἶσθ' ἂν παρασχέ-  
 σθαι καὶ διαθήκας οὐκ οὔσας, ἀδελφὸν δὲ ἡ πάππον ἡ  
 πατέρα οὐκ ἂν, εἴπερ ἦν δυνατόν ἔνεκα χρημάτων;  
 ὁπότε τοῖνυν μηδεὶς φαίνεται ζῶν τούτων, τότε ἀνάγκη  
 ἐπικλήρον τὴν μητέρα ἡμῶν εἶναι. τῆς τοῖνυν ἐπικλή-  
 ρου σκοπεῖτε τίνας κελεύουσιν οἱ νόμοι κυρίους εἶναι. 1135  
 20 λέγε τὸν νόμον.

### ΝΟΜΟΣ.

[Καὶ ἐὰν ἐξ ἐπικλήρου τις γένηται, καὶ ἅμα ἡβήσῃ  
 ἐπὶ δέτετες, κρατεῖν τῶν χρημάτων, τὸν δὲ σῆτον μετρεῖν  
 τῇ μητρὶ.]

Οὐκοῦν ὁ μὲν νόμος κελεύει τοὺς παῖδας ἡβήσαν-  
 τας κυρίους τῆς μητρὸς εἶναι, τὸν δὲ σῆτον μετρεῖν τῇ  
 μητρὶ. ἐγὼ δὲ φαίνομαι στρατευόμενος καὶ τριηραρ-  
 21 χῶν ὑμῖν, ὅτε οὗτος συνώκησε τῇ μητρὶ. ἀλλὰ μὲν  
 ὅτι ἐγὼ μὲν ἀπεδήμουν τριηραρχῶν, ἐτετελευτήκει<sup>u</sup> δ'  
 ὁ πατὴρ πάλαι, ὅτε οὗτος ἔγηνε, τὰς δὲ θεραπαίνας

<sup>u</sup> τετελευτήκει Z.

20. καὶ ἐὰν—μητρ.] 'If a son is born of an heiress, two years after he has attained his puberty he shall enter into possession of the estate, and he shall pay alimony to his mother.' K. Harpocr. ἐπιδιετεὶς ἡβῆσαι. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. At the end of his article he quotes Hyperides (frag. 223) ἐπεὶ δὲ ἐνεγράφη ἐγὼ καὶ ὁ νόμος ἀπέδωκε τὴν κομίδην τῶν καταλειφθέντων τῇ μητρὶ, ὅς κελεύει κυρίους εἶναι τῆς ἐπικλήρου καὶ τῆς οὐσίας ἀπάσης τοὺς παῖδας, ἐπειδὴν ἐπιδιετεὶς ἡβῶσιν. Cf. Isaacs frag. 90, id. Or. 10 §12 and Or. 8 §80. (See A. Schaefer, Dem. III. 2. 19—39, esp. p. 25, *Eintritt der Mündigkeit nach Attischen Rechte*, where

ἐπιδιετεὶς ἡβῆσαι is explained to include the 17th and 18th year, and the 'coming of age' is placed at the age of 18. K. F. Hermann, *Privatalt.* § 85.)

On ἐπικλήρος cf. note on Or. 45 § 75 and see C. B. Kennedy in *Dict. Antiq.*, K. F. Hermann, *Public Antiq.* § 120, notes 6—12. (Lortzing, *Apoll.* p. 85 and A. Schaefer u. s. p. 176.)

στρατευόμενος κ.τ.λ.] And therefore of full age; referring back to παῖδας ἡβήσαντας.

21. πάλαι.] Pasion died B.C. 370, the trierarch probably took place in B.C. 368 (Or. 45 § 3), and it was during the plaintiff's absence on this public service that the marriage of Archippe took place. The interval here

αὐτὸν ἐξήτουν καὶ ἡξίουں περὶ αὐτοῦ τούτου βασιάν-  
ζεσθαι αὐτὰς, εἰ ταῦτ' ἀληθὴ ἔστι, καὶ ὡς προεκαλού-  
μην, λαβέ μοι τὴν μαρτυρίαν.

### ΜΑΡΤΥΡΙΑ.

[Μαρτυροῦσι παρεῖναι, ὅτε προῦκαλεῖτο Ἀπολλό-  
δωρος Φορμίωνα, ὅτε ἡξίουں ἀποδοῦναι Ἀπολλοδώρος  
Φορμίωνα τὰς θεραπαίνας εἰς βάσανον, εἰ μὴ φησι  
Φορμίων καὶ πρότερον διεφθαρκεῖναι τὴν μητέρα τὴν  
ἐμήν, πρὶν οὐδ' ἀποφαίνει Φορμίων γῆμαι ἐγγυησάμε-  
νος αὐτὴν παρὰ Πασίωνος. ταῦτα δὲ προκαλουμένου  
Ἀπολλοδώρου οὐκ ἠθέλησε Φορμίων παραδοῦναι τὰς  
θεραπαίνας.]

22 Τὸν τοίνυν νόμον ἐπὶ τοῖτοις ἀνάγνωθι, ὃς κελεύει  
ἐπιδικασίαν εἶναι τῶν ἐπικλήρων ἀπασῶν, καὶ ξένων

implied by the vague word  
παλαι 'some time before' would  
seem to be two years. The  
plaintiff wishes to insinuate  
that, though some time elapsed  
before the marriage proper  
(ἐγγυε), intrigues had been go-  
ing on at an earlier date, and  
this is how the composer of the  
deposition in § 21 seems to have  
understood it.

τὴν μητέρα τὴν ἐμήν.] These  
words, which would have been  
appropriate enough in the  
mouth of Apollodorus, are ab-  
surdly out of place in the depo-  
sition, and betray gross care-  
lessness on the part of the  
fabricator of the document.  
Even apart from this detail,  
the general contents of the  
deposition are different from  
what we are led to expect by  
the plaintiff's language in intro-  
ducing it. (A. Westermann *u. s.*  
p. 113.)

§§ 22—24. The law does not

allow any one to marry an  
'heiress,' without a legal ad-  
judication. Phormio made no  
legal claim for the hand of my  
mother, but did exactly as he  
pleased, in defiance of the law.

22. τῶν ἐπικλήρων.] The plain-  
tiff attempts to prove that his  
mother was an 'heiress.' If so,  
her property ought to have pass-  
ed absolutely into the hands  
of her eldest son, on his coming  
of age, whether her husband  
was alive or not. But there is  
not a single trace of such a  
relation between Archippe and  
Apollodorus in the rest of the  
speeches of the latter. Archippe  
was most probably of foreign  
extraction (cf. Or. 45 § 22) and  
the plaintiff's argument seems  
the merest shuffling. (See  
further, A. Schaefer, *Dem. u. s.*  
*Zeit.*, III. 2, p. 176.) Ὁν ἐπιδικα-  
σία τῶν ἐπικλήρων see note on  
Or. 45 § 75.

καὶ ἀστῶν, καὶ περὶ μὲν τῶν πολιτῶν τὸν ἄρχοντα εἰσάγειν καὶ ἐπιμελεῖσθαι, περὶ δὲ τῶν μετοίκων τὸν πολέμαρχον, καὶ ἀνεπίδικον μὴ ἐξεῖναι ἔχειν μήτε κλῆρον μήτε ἐπικλήρον.

## ΝΟΜΟΣ.

1136

[Κληροῦν δὲ τὸν ἄρχοντα κλήρων καὶ ἐπικλήρων, ὅσοι εἰσὶ μῆνες, πλὴν τοῦ σκιροφοριῶνος. ἀνεπίδικον δὲ κλῆρον μὴ ἔχειν.]

- 23 Οὐκοῦν αὐτὸν εἴπερ ἐβούλετο ὀρθῶς διαπράττεσθαι, λαχεῖν ἔδει τῆς ἐπικλήρου, εἴτε κατὰ δόσιν αὐτῷ<sup>†</sup> προσήκεν<sup>‡</sup> εἴτε κατὰ γένος, εἰ μὲν ὡς ὑπὲρ ἀστῆς, πρὸς τὸν ἄρχοντα, εἰ δὲ ὑπὲρ ξένης, πρὸς τὸν πολέμαρχον, καὶ τότε, εἴπερ τι λέγειν εἶχε δίκαιον, πείσαντα ὑμῶν τοὺς λαχόντας μετὰ τῶν νόμων καὶ τῆς ψήφου κύριον

<sup>†</sup> Bekker.

<sup>‡</sup> αὐτῷ Z.

<sup>§</sup> ἐβούλετο Z cum Σ.

<sup>¶</sup> G. H. Schaefer.

προσήκεν Z cum libris.

κληροῦν κλήρων κ.τ.λ.] i.e. 'assign by lot days for the trial of claims to inheritances or heiresses.' Below, we have the corresponding phrase λαχεῖν τῆς ἐπικλήρου, i.e. 'to have allotted to one a suit for the hand of the heiress.' Cf. the common phrases λαγχάνειν and κληροῦν δίκην; so λαγχάνειν τοῦ κλήρου 'to be a suitor for the property,' Isaeus Or. 11 (Hagn.) §§ 22, 40, Or. 3 (Pyrr.) § 74 and Or. 9 (Astyph.) § 4.

τὸν ἄρχοντα.] The Archon Eponymus, or Chief Archon. See Or. 35 § 48 (where the duties of the Polemarch are also mentioned) and Or. 37 § 33.

πλὴν σκιροφοριῶνος.] The last month of the Attic year, nearly corresponding to our June. It is here excepted, apparently because it was in this month that most of the magistrates

vacated office and passed their audit.

ἀνεπίδικον.] 'Without legal adjudication.' See K. F. Hermann, Privatalt. § 66, notes 1 and 2.

23. εἴπερ...εἴτε...εἴτε...εἰ...εἰ...εἴπερ.] εἰ is here repeated in various forms no less than six times in the same sentence; cf. Or. 53 § 23 where εἰ occurs twice. But even the undisputed writings of Demosthenes contain frequent instances of such reiteration, e.g. Or. 54 § 15 (twice); Or. 15 (de Rhod. lib.) § 15 (thrice); Or. 20 (Lept.) § 113 (four times) 'quamquam hic ei μὲν et ei δὲ inter se opponuntur quae non est vera repetitio.' (Lortzing, *Apoll.* p. 33).

ὑμῶν τοὺς λαχόντας.] 'Those of your number who were drawn for the jury' ('allotted for the trial of the cause').

εἶναι, καὶ μὴ αὐτὸν αὐτῷ νόμους ἰδίους θέμενον δια-  
πράξασθαι ἃ ἐβούλετο.

- 24 Σκέψασθε δὴ καὶ τονδὶ τὸν νόμον, ὃς κελεύει τὴν  
διαθήκην, ἣν ἂν παῖδων ὄντων γνησίῳ ὁ πατὴρ δια-  
θῇται, ἐὰν ἀποθάνωσιν οἱ παῖδες πρὶν ἡβῆσαι, κυρίαν  
εἶναι,

### ΝΟΜΟΣ.

[Ὁ τι ἂν γνησίῳ ὄντων υἱῶν ὁ πατὴρ διαθῇται,  
ἐὰν ἀποθάνωσιν οἱ υἱεῖς πρὶν ἐπὶ δέτετες ἡβᾶν, τὴν  
τοῦ πατρὸς διαθήκην κυρίαν εἶναι.]

- 25 Οὐκοῦν ὅποτε ζῶσιν, ἄκυρος μὲν ἡ διαθήκη ἐστίν,  
ἣν φασιν οὗτοι τὸν πατέρα καταλιπεῖν, παρὰ πάντας  
δὲ τοὺς νόμους μεμαρτύρηκε Στέφανος οὕτοσὶ τὰ ψευ-  
δῇ, ὡς ἀντίγραφά ἐστι τῆς διαθήκης τῆς Πασίωνος·  
πῶς γὰρ σὺ οἶσθα, καὶ ποῦ παραγενόμενος διατιθεμένῳ  
τῷ πατρί; κακοτεχνῶν δὲ φαίνει περὶ τὰς διαθήκας,  
τὰ ψευδῇ μὲν αὐτὸς μαρτυρῶν ἐτοιμῶς, κλέπτων δὲ  
τὰς ἀληθεῖς μαρτυρίας, ἐξαπατῶν δὲ τοὺς δικαστὰς,  
συνιστάμενος δ' ἐπὶ ταῖς δίκαις. οἱ δὲ νόμοι καὶ περὶ  
26 τῶν τοιούτων γραφὴν πεποιήκασιν. καὶ μοι ἀνάνηθι  
τὸν νόμον.

### ΝΟΜΟΣ.

1137

[Εάν τις συνίστηται ἢ συνδεκάζη τὴν ἡλικίαν ἢ

§ 24. *Again, there is a law allowing a will made by a father (though he has legitimate sons) to become valid if the sons die before reaching manhood. In the present case, as the sons are alive and grown up, the 'will' is invalid.*

ἐὰν ἀποθάνωσιν—πρὶν ἡβῆσαι.]  
‘Every man of full age and sound mind, not under duress or improper influence (cf. § 15), was competent to make a will; but if he had a son he

could not disinherit him; although his will might take effect on the contingency of the son not completing his seventeenth year’ (C. R. Kennedy in Dict. Ant. s. v. *Heres*).

For the latter part of this statement, the present passage is perhaps the only express authority.

§§ 25—26. *Further, the defendant has illegally entered into a conspiracy to defeat the ends of justice.*

τῶν δικαστηρίων τι τῶν Ἀθήνησιν ἢ τὴν βουλὴν ἐπὶ δωροδοκίᾳ χρήματα διδούς ἢ δεχόμενος, ἢ ἑταιρείαν συνιστῇ ἐπὶ καταλύσει τοῦ δήμου, ἢ συνήγορος ὦν λαμβάνῃ χρήματα ἐπὶ ταῖς δίκαις ταῖς ἰδίαις ἢ δημοσ-  
ταῖς, τούτων εἶναι τὰς γραφὰς πρὸς τοὺς θεσμοθέτας.]

27 Ἡδεὺς ἂν τοίνυν ὑμᾶς ἐροίμην ἐπὶ τούτοις ἅπασι

κλέπτων...μαρτυρίας.] Or. 45 § 58. On συνιστάμενος, see note on συστάσεις Or. 45 § 67.

συνδεκά[ρ.] 'Bribe the Heli-  
na.' Pollux: δῶρων κατὰ τοῦ ἐπὶ δώροις δικάσαντος ἢ τῇ γραφῇ, δεκάσμου δὲ κατὰ τοῦ διαφθείραντος· καὶ ὁ μὲν δεκάζεσθαι ὁ δὲ δεκάζειν ἐλέγετο. Cf. Or. 21 (Mid.) § 113 lex, εἰάν τις...διδῶ ἐτέρῳ ἢ διαφθείρῃ τινὰς ἐπαγγελλόμενος, ἐπὶ βλαβῇ τοῦ δήμου...ἄπιος ἔστω. δεκάσμος however (strictly meaning a systematic bribery by division into sets of ten) is only a late word and is not found in the Attic Orators, though ἀδέκαστος occurs in Ar. Ethics II. 9. 6, οὐ γὰρ ἀδέκαστοι κρίνομεν (τὴν ἡδονήν), and Aeschines, Timarch. § 86, has συνδεκάζειν τὴν ἐκκλησίαν καὶ τὰλλα δικαστήρια and ib. § 87 μαρτυρεῖν τὸν μὲν ὡς ἐδέκαζε τὸν δὲ ὡς ἐδεκάζετο. Cf. Isocr. Or. 8 § 50 θανάτου τῆς ζημίας ἐπικειμένης, εἰάν τις ἀλφ' δεκάζων and Lysias Or. 29 § 12 δεδεκασμένοι. So in Latin, we have *decuriare* used of organised bribery at elections, Cicero, pro Plancio § 45 *decuriatio tribulium* and *decuriasse Plancium, conscripsisse*. Cf. the obscure name given to bribed dicasts at Athens, Λύκον δεκάς. (In wholesale bribery an agent, it is conjectured, was chosen from each tribe and the group of ten thus selected to deal with their fellow-tribesmen were comically called Λύκον δεκάς from the statue of

Lycus near the law-courts. Meier and Schömann, *Att. Process* p. 150. Harpocr. s. v. δεκάζων.)

The usual phrase for bribery is χρήμασι φθελειν (or διαφθειρειν), though the euphemism χρήμασι πείσαι is still more frequent, and it is curious to note how frequently the word δωροδοκία occurs, and how rarely δεκάσμος and its corresponding verb. Again and again we have charges of receiving bribes, seldom of giving them; possibly because those who gave them were too powerful to be attacked. —ἐπὶ δωροδοκίᾳ 'with a corrupt motive,' is here a general term, implying without directly expressing the corresponding term δεκάσμος.

ἑταιρείαν ἐπὶ καταλύσει τοῦ δήμου.] Thuc. VIII. 54, ὁ Πείσανδρος τὰς ξυνωμοσίας..ἅπασας ἐπελθὼν καὶ παρακελευσάμενος ὅπως...καταλύσουσι τὸν δῆμον κ.τ.λ. See Grote, H. G. chap. 51 (iv. p. 394, ed. 1862).

ἐπὶ ταῖς δίκαις κ.τ.λ.] 'In any cause either of a public or private nature.' K. Rather (as above, § 25), 'with a view to winning the causes brought either by private persons or on public grounds.' It is to a collusion for such a purpose between the σύνδικος and the συνήγορος that Aristophanes alludes in Vesp. 694. P.]

θεσμοθέτας.] 'The six minor Archons.'

κατὰ ποίους νόμους ὁμωμοκότες δικάζετε, πότερα κατὰ τοὺς τῆς πόλεως ἢ καθ' οὓς Φορμίων αὐτῷ νομοθετεῖ. ἐγὼ μὲν τοίνυν τούτους παρέχομαι ὑμῖν, καὶ ἐξελέγχω αὐτοὺς ἀμφοτέρους παραβεβηκότας, Φορμίωνα μὲν ἐξ ἀρχῆς ἀδικήσαντα ἡμᾶς καὶ ἀποστερήσαντα τὰ χρήματα, ἃ ὁ πατὴρ ἡμῖν κατέλιπε καὶ ἐμίσθωσε τούτῳ μετὰ τῆς τραπέζης καὶ τοῦ ἐργαστηρίου, Στέφανον δὲ τουτοῦ τὰ ψευδῆ μεμαρτυρηκότα καὶ παρὰ τὸν νόμον.

- 28 Ἄξιον τοίνυν, ὦ ἄνδρες δικασταί, καὶ τόδε ἐνθυμηθῆναι, ὅτι διαθηκῶν οὐδεὶς πώποτε ἀντίγραφα ἐποιήσατο, ἀλλὰ συγγραφῶν μὲν, ἵνα εἰδῶσι καὶ μὴ παραβαίνωσι, διαθηκῶν δὲ οὐ. τούτου γὰρ ἕνεκα καταλείπουσιν οἱ διατιθέμενοι, ἵνα μηδεὶς εἰδῇ ἃ δια-

† Bekker cum Z (in margine). διαθήκης Z cum ΣΦ. διαθήκας F.

§ 27. *The jury has sworn to do justice according to the laws of Athens and not the laws which Phormio chooses to lay down for himself. I produce the laws of Athens and I prove that both of my opponents have broken them, Phormio by defrauding me of the money left me by my father, Stephanus by giving false evidence and that contrary to the law.*

τὰ χρήματα.] sc. the Banking-stock, which is the subject of Or. 36. The ἐργαστήριον is the shield-manufactory of Or. 36 § 4.

§ 28. *The jury, by the way, should also notice that no one ever makes a copy of a will. How then came Stephanus and his friends to know that the contents of the document appended to the deposition are a copy of my father's will?*

καταλείπουσιν.] Especially used of leaving behind one at

death. 'The reason why people leave their wills behind them (instead of publishing them before they die) is to prevent any one knowing their contents.' Kennedy renders it: 'keep wills by them until their death.' From not recognising this meaning, several unnecessary conjectures have been suggested, e.g. κατασκευασμένας καταλείπουσιν (Reiske); κατακλείουσιν (Seager); οὐ καταλείπουσιν, sc. διαθηκῶν ἀντίγραφα (G.H.Schaefer).

[I incline to think κατακλείουσιν is the true reading. The reason why people 'leave wills' is to shew how they wish to dispose of their property; the reason why they 'keep them under lock and key' is that no one may have access to them. P.]

For the reiteration διατίθεναι...διατίθενται, see §§ 2 and 3.

τίθενται. πῶς οὖν ὑμεῖς ἴστε ὅτι ἀντίγραφά ἐστι τῶν διαθηκῶν τῶν Πασίωνος τὰ ἐν τῷ γραμματείῳ γεγραμμένα;

29 Δέομαι δ' ὑμῶν πάντων, ὧ ἄνδρες δικασταί, καὶ ἱκετεύω βοηθῆσαι μὲν ἐμοί, τιμωρῆσασθαι δὲ τοὺς ἐτοίμως οὕτω τὰ ψευδῆ μαρτυροῦντας, ὑπὲρ τε ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων.

§ 29. *I implore the jury to grant me redress, that those who are so prompt to give false evidence may be punished on all grounds, particularly for the sake of justice and the laws.*

*τῶν νόμων.*] Placed last for emphasis, since the whole speech has dealt with quotations of laws and not with *elkōta*, or 'presumptive proofs,' as in the former oration.



# LIII.

## ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ ΑΡΕΘΟΥΣΙΟΥ\*.

### ΤΠΟΘΕΣΙΣ.

Ἀπολλόδωρος γραψάμενος ψευδοκλητείας<sup>b</sup> Ἀρεθούσιον εἶλεν. ὀφείλουτος δὲ τοῦ Ἀρεθουσίου τάλαντον τῇ πόλει καὶ ἀποδοῦναι μὴ δυνηθέντος, καὶ διὰ τοῦτο εἰς τὰ δημόσια ἀπογραφομένης αὐτοῦ τῆς οὐσίας, ἀπογράφει ὁ Ἀπολλόδωρος οἰκέτας ὡς ὄντας Ἀρεθουσίου, ὁ δὲ Νικόστρατος<sup>c</sup> μεταποιεῖται ὡς<sup>d</sup> ἰδίῳ καὶ ἐκείνῳ προσηκόντων οὐδέν. ἐπεὶ δὲ τὸ πρᾶγμα μοχθηρὸν ἐστὶ, διὰ τοῦτο ὁ ῥήτωρ διηγεῖται πηλικά<sup>e</sup> πέπονθεν Ἀπολλόδωρος ὑπ' Ἀρεθουσίου, ἵνα δοκῇ μὴ

\* πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπῶν Z.

<sup>b</sup> -τίας Kerrich ms. <sup>c</sup> γὰρ Kerrich ms.

<sup>d</sup> ὡς οὐκ ὄντας Ἀρεθουσίου, μεταποιεῖται ὡς Kerrich ms.

<sup>e</sup> [ὁ δὲ Νικόστρατος] Z. 'addidit Bekker cum H. Wolf.'

<sup>f</sup> om. Z. addidit Dindf. ex Σ. <sup>g</sup> τοικῶλλα (sic) Kerrich ms.

Argument 1. ψευδοκλητείας.]  
See note on § 17.

1. 8. μοχθηρὸν.] 'vexatious,'  
so. συκοφαντικόν.

§§ 1—4. (Arethusius has incurred a debt to the public treasury and has neglected to discharge it.) I have accordingly laid an information against him and drawn up a specification of his property. I have been prompted to do so, not by petty and vexatious motives, but by the simple desire to exact vengeance for having been outrageously wronged by Arethusius and his brother Nicostratus. The purity of my motives will be proved, (1) by the small amount

at which the two slaves are valued in the specification (two-and-a-half minae), so that the pecuniary gain to which I am legally entitled for bringing this information is small, while the loss which I should incur, if I fail, is 1000 drachmae, (or four times as great as the value of the slaves). (2) The fact that I have laid the information in my own name, instead of getting a friend to act on my behalf, proves that I am prompted by the personal motive of revenge alone; content with that revenge, I am willing to waive in favour of the public treasury all claim to the reward which the

φύσει πονηρὸς ὢν ταῦτα πράττειν, ἀλλὰ ἀμυνόμενος 1246  
τὸν ἀδικοῦντα.

1 "Οτι μὲν οὐ συκοφαντῶν, ἀλλ' ἀδικούμενος καὶ ὑβρι-  
ζόμενος ὑπὸ τούτων καὶ οἰόμενος δεῖν τιμωρεῖσθαι τὴν  
ἀπογραφὴν ἐποιησάμην, μέγιστον ὑμῖν ἔστω τεκμή-  
ριον, ὃ ἄνδρες δικασταί, τό τε μέγεθος τῆς ἀπογραφῆς,

law in such cases allows the bringer of the information (viz. three-fourths of the valuation).

The court will now permit me to justify myself by shewing how ungratefully I have been dealt with by my opponents and by relating, so far as time permits, the most atrocious and flagrant of all the wrongs which they have inflicted upon me.

1. οὐ συκοφαντῶν κ.τ.λ.] Apollodorus is anxious to rebut, at the very outset, the obvious imputation of *συκοφαντία*. To prove that, so far from being actuated by a spirit of petty and vexatious litigiousness, he has been inspired by what an Athenian tribunal would regard as a thoroughly legitimate motive, the motive of revenge, he appeals to two points. The first is the small amount (two and a half minae) at which the slaves in dispute were valued. If the informer proved his case, the law allowed the informer to have three-fourths of the amount. Apollodorus would thus have a claim for barely two minae (or less than £8), a sum too small to provide a sufficient motive for *συκοφαντία*. If that had been his object, he would of course have made a higher valuation, looking only to his share of the reward as the informer. His second point is the fact that instead of availing himself of

the services of his friends he had himself drawn up the specification (αὐτὸς ἐγὼ ἀπέγραψα)—a fact which proved that he was prompted by the motive of a purely personal revenge, especially as he waived all claim to his share of the fine.

οἰόμενος δεῖν τιμωρεῖσθαι.] 'To avoid the fatal charge of *syco-phanta*, any one prosecuting a fellow-citizen for some public offence endeavoured to shew that he had private and personal grounds of enmity against the accused; and if he succeeded in proving this, it was considered the most natural and reasonable thing in the world that he should endeavour to satisfy his hatred by becoming public prosecutor.' Wilkins' *Light of the World* p. 80 (where a reference is made to Lewes' *History of Philosophy* i. 108). For illustrations of the Greek view of the reasonableness of revenge, see note on Isocr. ad Dem. § 26.

τὸ μέγεθος.] 'the size,' 'the amount,' a neutral word, here meaning probably 'the small amount,' 'the paltriness of the specification.' Herod. ii. 74, *μεγὰρ εἰ μικρόν*. The sum of two and a half minae seems to refer to the value of the two slaves taken together. (Boeckh, *Publ. Econ.* i. 94, note 300, 97. b. of Second German ed.). Reiske,

καὶ ὅτι αὐτὸς ἐγὼ ἀπέγραψα. οὐ γὰρ δήπου συκοφαν-  
τεῖν γε βουλόμενος ἀπέγραψα ἂν πένθ' ἡμιμναίων  
ἄξια ἀνδράποδα, ὥς αὐτὸς ὁ ἀμφισβητῶν τετίμηται  
αὐτὰ, ἐκινδύνευον δ' ἂν περὶ τε χιλίων δραχμῶν καὶ  
τοῦ μηδέποτε μηδένα αὐθις ὑπὲρ ἑμαντοῦ γράφασθαι·  
οὐδ' αὖ οὕτως ἄπορος ἦν οὐδ' ἀφίλος<sup>h</sup> ὥστ' οὐκ ἂν  
<sup>2</sup> ἐξευρεῖν τὸν ἀπογράψοντα· ἀλλὰ τῶν ἐν ἀνθρώποις  
ἀπάντων ἡγήσάμενος δεινότατον εἶναι ἀδικεῖσθαι μὲν  
αὐτὸς, ἕτερον δ' ὑπὲρ ἐμοῦ τοῦ ἀδικουμένου τούνομα  
παρέχειν, καὶ εἶναι ἂν τι τούτοις τοῦτο τεκμήριον,

<sup>h</sup> οὐδ' ἀφίλος Bekker.

om. Z cum Z.

however, explains τὸ μέγεθος τῆς ἀπογραφῆς: *magnitudo mulctae mihi luendae, si causa cadam*.

τῆς ἀπογραφῆς.] 'the specification,' or 'inventory,' of property, used especially of information as to State property alleged to be unlawfully held by a private person. Harpocration, ἀπογραφὴ· ὅταν τις λέγῃ τινα ἔχειν τι τῶν τῆς πόλεως, ἀπογραφὴν ποιεῖται ὁ ἐναγόμενος, δηλὼν πόθεν ἔχει τὰ χρήματα καὶ πόσα ταῦτα εἶη... τί δὲ ἦν τὸ κινδύνευμα τῷ τὴν ἀπογραφὴν ποιουμένῳ, ἐν τῷ Δημοσθένους πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων, εἰ γνήσιος, δηλὸν γίγνεται. Hesychius, ἀπογραφὴ· ἀρίθμησις· ἢ ἡ γिनόμενη μῆνυσις. Cf. Or. 22 (Androt.) § 64, τὸ τὰ χωρία δημεύειν καὶ τὰς οἰκίας, καὶ ταῦτ' ἀπογράφειν.

οὐδ' ἄντων. ἀπέγραψα ἂν. ἀνδράποδα.] We should expect τὰν δράποδα. 'I should not have estimated the slaves as worth 2½ minae.' Kennedy translates: 'I should not have scheduled slaves worth two minas and a half.' Dobree prefers ἀπέγραψα μὲν ἂν...

χιλίων δραχμῶν.] The fine

inflicted on a prosecutor who in a public accusation failed to obtain a fifth part of the votes. This fine was attended by complete or partial disfranchisement. Or. 58 (Theocrin.) § 6 εἰάν ἐπεξίων τις μὴ μεταλάβῃ τὸ πεμπτὸν μέρος τῶν ψήφων, χιλίας ἀποτινῇ, κἂν μὴ ἐπέξῃ, χιλίας ἐτέρας, ἵνα μὴ συκοφαντῇ μηδεὶς μήτ' ἀδικῶν ἔχων ἐργολαβίῃ καὶ καθυφίῃ τὰ τῆς πόλεως.

ὥστ' οὐκ ἂν ἐξευρεῖν.] A mixed phrase between ὥστ' οὐκ ἂν ἐξεύρομαι and ὥστε μὴ ἐξευρεῖν. The use of ἂν with ὥστε and the infinitive is rare, but it occurs when a mere contingent result is described. P.]

2. τούνομα παρέχειν.] 'lend his name,' i. e. allow himself to be used as a cat's paw. [Euripides has παρασχεῖν ὄνομα in *Helena* 1100 and 1653, where Helen is said to have 'lent her name' for the fraud put upon Paris in marrying a mere εἰδωλον. In both passages however the genuineness of the verse may be doubted. P.]

τεκμήριον—ὡς ψεύδομαι.] My opponents might have said, 'If you really had a quarrel against us, why did you not file the

ὅποτε ἐγὼ λέγοιμι τὴν ἔχθραν πρὸς ὑμᾶς, ὡς ψεύδομαι (οὐ γὰρ ἂν ποτε ἕτερον ἀπογράψαι, εἴπερ ἐγὼ αὐτὸς ἡδικούμην), διὰ μὲν ταῦτ' ἀπέγραψα. ἀπογράψας δὲ εἰάν ἀποδείξω τὰνδράποδα Ἀρεθουσίου ὕντα, οὐπερ ἐγγέγραπτο εἶναι, τὰ μὲν τρία μέρη, ἃ ἐκ τῶν νόμων 1247 τῷ ἰδιώτῃ τῷ ἀπογράψαντι γίνονται, τῇ πόλει ἀφήμι, 3 αὐτῷ δ' ἐμοὶ τετιμωρῆσθαι ἀρκεῖ μόνον. εἰ μὲν οὖν μοι ἦν ἱκανὸν τὸ ὕδωρ διηγῆσασθαι πρὸς ὑμᾶς τὰ ἐξ ἀρχῆς, ὅσ' ἀγαθὰ πεπονθότες ὑπ' ἐμοῦ οἶά με εἰργασμένοι εἰσιν, εὖ οἶδ' ὅτι ὑμεῖς τ' ἂν μοι ἔτι μάλλον συγγνώμην εἴχετε τοῦ ὀργίζεσθαι αὐτοῖς, τούτους τ' ἀνοσιωτάτους ἀνθρώπων ἡγήσασθε εἶναι· νῦν δ' οὐδὲ διπλάσιόν μοι τούτου ὕδωρ ἱκανὸν ἂν γένοιτο. τὰ μὲν οὖν μέγιστα καὶ περιφανῇ τῶν ἀδικημάτων, καὶ ὀπότεν ἡ ἀπογραφή αὕτη γέγονεν, ἐρῶ πρὸς ὑμᾶς, τὰ δὲ πολλὰ ἐάσω.

action against us in your own name.' Perhaps we should read: οὐ γὰρ ἂν ἐὰν ποτε ἕτερον ἀπογράψαι, 'for I never should have allowed another, &c.' P.] τὰ τρία μέρη.] Three-fourths of the valuation was allowed by law to be paid to the individual who brought the action. 'This regulation,' says Boeckh, 'appears to have been confined to concealed property, which was discovered by the informer.' In a majority of other cases the third part only was received by the accuser (Publ. Econ. ii. 130).—τῷ ἰδιώτῃ τῷ ἀπογράψαντι, 'to the individual informer' K. δ' ἰδιώτης is here contrasted with ἡ πόλις.

3. εἰ ἦν ἱκανὸν... ὑμεῖς ἂν συγγνώμην εἴχετε... νῦν δ' οὐδὲ διπλάσιον... ἱκανὸν ἂν γένοιτο.] The student will be careful to distinguish between the two forms

of conditional sentences here combined. 'If the time allowed had been sufficient, you would have made allowance for me..., but, as the case is, even twice as much time would not suffice.' (Goodwin, *Greek Moods* § 49. 2 and § 50. 2.)—On τὸ ὕδωρ cf. Or. 54 §§ 36 and 44 n.

δοσα... οἶα.] 'What benefits they have received from me and what a requital they have paid me for them,' or, better, 'the return they have given me for all the benefits I have conferred upon them.' For this idiomatic use of the double relative, cf. Soph. El. 751, οἳ ἐργα δρᾶσας οἶα λαγχάνει κακὰ, also Ovid, Fasti v. 460, cernite *sint qualis qui modo qualis eram*; and Cornelius Nepos, Atticus, 18, 3, *notans quis a quo ortus quos honores quibusque temporibus cepisset*.

4. Νικόστρατος γὰρ οὕτοσι<sup>1</sup>, ὃ ἄνδρες δικασταὶ, γεί-  
των μοι ὦν ἐν ἀγρῷ καὶ ἡλικιώτης γνωρίμῳς μὲν μοι  
εἶχε καὶ πάλαι, ἐπειδὴ δ' ἐτελεύτησεν ὁ πατὴρ καὶ ἐγὼ  
ἐν ἀγρῷ κατῴκουν, οὐπὲρ καὶ νῦν οἰκῶ, καὶ μᾶλλον

<sup>1</sup> Bekker.om. Z cum Σ. (οὔτος A<sup>1</sup>r.)

§§ 4—9. *My opponent's brother, Nicostratus, was my neighbour in the country, and, being about the same age, we were thrown much together and became more and more intimate with one another. I granted him whatever he asked of me, and he on his part was of some service to me in taking charge of my property whenever I was abroad on public or private business.*

On one of these occasions, when I had left him in charge, three of his servants ran away from him. While pursuing them, he was taken prisoner by a privateer, and sold as a slave. On my return, I was told of his unhappy plight by one of his brothers, Deinon, and I supplied the latter with travelling expenses and thus enabled him to go to the rescue of Nicostratus. The latter, on his return, informed me that he had been ransomed for a considerable sum; and by appealing to me with tears in his eyes and pointing to the marks left by the galling fetters (though he is now ashamed enough of those scars that are the memorials of his slavery), he succeeded in inducing me to forgive him the three minae, which I had advanced for his brother's travelling expenses, and to contribute, as a free gift towards the twenty-six minae required for the redemption money, the sum of ten minae which I raised on the security of some of my property.

4. Νικόστρατος γὰρ.] γὰρ is almost invariably used at the beginning of narratives like the present; the English idiom generally requires us to omit it in translation, though we may sometimes render it, 'Well, then,' 'to proceed, then.' Cf. Or. 55 § 10 τοῦ γὰρ χωρίου κ.τ.λ.

γνωρίμῳς εἶχε.] γνωρίμῳς is a much weaker word than φίλος, as has already been noticed, on Or. 45 § 73. The gradually increasing intimacy between Apollodorus and Nicostratus is well expressed by the successive phrases (1) γνωρίμῳς εἶχε, (2) μᾶλλον ἀλλήλοις ἐχρώμεθα, (3) πᾶν οἰκείως διεκείμεθα of the present section, and (4) φίλος ἀληθινός of § 12.

ἐτελεύτησεν ὁ πατὴρ.] The death of Pasion took place B. C. 370. (Or. 46 § 13.)

κατῴκουν...οἰκῶ.] If any distinction is to be drawn, the compound verb should be rendered 'I settled' and the simple 'I live,' but it is more likely that οἰκῶ is intended as a virtual repetition of the preceding κατῴκουν. In such cases it is unnecessary to repeat the preposition, e. g. Eur. Baec. 1065 κατῆγεν ἦγεν ἦγεν εἰς μέλαν πέδον and Orest. 181, διοιχόμεσθ', οἰχόμεθα where Porson remarks that, when a verb is repeated, it is generally used first in its compound, then in its simple form. Cf. Or. 86 § 4 προσώφειλε...ώφειλε.

μᾶλλον — διὰ τὸ γειτονέει τε

ἀλλήλοις ἤδη ἐχρώμεθα διὰ τὸ γείτονές τε εἶναι καὶ ἡλικιώται. χρόνου δὲ προβαίνοντος καὶ πάνυ οἰκείως διεκείμεθα, καὶ ἐγὼ θ' οὕτως οἰκείως διεκείμεν πρὸς τοῦτον ὥστ' οὐδενὸς πώποτε ὧν ἐδεήθη οὗτος ἐμοῦ ἀπέτυχεν, οὐτός τ' αὖ ἐμοὶ οὐκ ἄχρηστος ἦν πρὸς τὸ ἐπιμεληθῆναι καὶ διοικῆσαι, καὶ ὅποτε ἐγὼ ἀποδημῶν ἡ δημοσίᾳ τριηραρχῶν ἢ ἰδίᾳ κατ' ἄλλο τι, κύριον τῶν 5 ἐν ἀγρῷ τοῦτον ἀπάντων κατέλειπον. συμβαίνει δὲ μοι τριηραρχία περὶ Πελοπόννησον, ἐκείθεν δ' εἰς Σικελίαν ἔδει τοὺς πρέσβεις ἄγειν, οὓς ὁ δῆμος ἐχειροτόνησεν. ἡ οὖν ἀναγωγὴ διὰ ταχέων ἐγγίγνέτο μοι. ἐπιστέλλω δὲ αὐτῷ ὅτι αὐτὸς μὲν ἀνῆγμαι καὶ οὐχ οἷός τ'

εἶναι.] 'We grew more and more familiar with one another from being not only neighbours but also of the same age.' Or. 55 § 23 ad fin. and Or. 85 § 6 ἐπιτήδειοι μοι εἰσι καὶ χρώμεθ' ἀλλήλοις ὡς οἶόν τε μέλιστα.

χρόνου προβαίνοντος.] Soph. Phil. 285, ὁ μὲν χρόνος δὴ διὰ χρόνον προβαίνει μοι.

δημοσίᾳ τριηραρχῶν.] This reference to the speaker's public services is dexterously inserted to ingratiate him with his audience, as well as to lead up to the subsequent narrative συμβαίνει δὲ μοι τριηραρχία.—On some of the later trierarchal services of Apollodorus cf. note on Or. 36 § 41.

5. τριηραρχία περὶ Πελοπόννησον κ.τ.λ.] The date of this event, if it could be determined with certainty, would assist materially in determining the date of the delivery of the speech. It seems very probable that this trierarchy should be identified with that referred to in Or. 45 § 3, which, as we have already seen, may be placed in the year 368 B.C. See chronological note on

the Introduction to this speech.

διὰ ταχέων.] Thuc. i. 80, διὰ ταχέων ἐλθεῖν, Isocr. Plataic. § 3 διὰ βραχέων ἀν' ἐπαισημέθα τοὺς λόγους followed by ἀναγκαῖον διὰ μακροτέρων δηλώσαι. (Kühner Greek Grammat. ii. § 434, 1, d.)

ἀνῆγμαι.] ἀνάγεσθαι is constantly contrasted with κατέγεσθαι; the latter word occurs in § 6 κατήχθη εἰς Αἴγυπτον. The verb, with its corresponding substantive ἀναγωγή, implies a notion that ships in the open sea or, as we say, on the 'high seas,' are at a greater elevation than vessels in harbour. So in Thuc. i. 48 and viii. 10 μετέωρος is an epithet of ships at sea; and similar references to this familiar optical illusion may be noted in Milton's *Paradise Lost* ii. 636, 'Far off at sea a fleet descried Hangs in the clouds,' and in Ruskin's 'thymy slopes of down overlooked by the blue line of lifted sea' (Modern Painters iii. iv. 14 § 51).

ἐπιστέλλω... ὅτι ἀνῆγμαι καὶ οὐχ οἷός τ' εἶην.] The historic present ἐπιστέλλω being virtu-

εἶην<sup>k</sup> οἰκάδε ἀφικέσθαι, ἵνα μὴ κατακωλύοιμι τοὺς 1248  
 πρέσβεις· τοῦτ' δὲ προσέταξα ἐπιμελεῖσθαι τε τῶν  
 οἴκοι καὶ διοικεῖν, ὥσπερ καὶ ἐν τῷ ἔμπροσθεν χρόνῳ.  
 6 ἐν δὲ τῇ ἡμῇ ἀποδημίᾳ ἀποδιδράσκουσιν αὐτὸν οἰκέται  
 τρεῖς ἐξ ἀγροῦ παρὰ τούτου, οἱ μὲν δύο ὧν ἐγὼ ἔδωκα  
 αὐτῷ, ὁ δὲ εἰς ὧν αὐτὸς ἐκτίσαστο. διώκων οὖν ἀλίσ-  
 κεται ὑπὸ τριήρους καὶ κατήχθη εἰς Αἴγιναν, καὶ ἐκεῖ  
 ἐπράθη. ἐπειδὴ δὲ κατέπλευσα ἐγὼ τριηραρχῶν, προσ-  
 ἔρχεται μοι Δείνων ὁ ἀδελφὸς ὁ τούτου λέγων τὴν τε  
 τούτου συμφορὰν, αὐτὸς τε ὅτι δι' ἀπορίαν ἐφοδίων οὐ  
 πεπορευμένος εἶη ἐπὶ τούτῳ πέμποντος τούτου αὐτῷ<sup>1</sup>  
 ἐπιστολὰς, καὶ ἅμα λέγων πρὸς ἐμὲ ὡς ἀκούει αὐτὸν  
 7 δεινῶς διακεῖσθαι. ἀκούσας δ' ἐγὼ ταῦτα καὶ συναχθε-  
 σθεὶς ἐπὶ τῇ ἀτυχίᾳ τῇ τούτου πέμπω τὸν Δείνωνα τὸν  
 ἀδελφὸν αὐτοῦ<sup>m</sup> εὐθὺς ἐπὶ τούτῳ, δοὺς ἐφόδιον αὐτῷ  
 τριακοσίας δραχμὰς. ἀφικόμενος δ' οὗτος καὶ ἐλθὼν  
 ὡς ἐμὲ πρῶτον μὲν ἡσπάζετο, καὶ ἐπὶ πᾶσι παρέσχον

<sup>k</sup> Bekker.ἦν Ζ cum Στλ<sup>1</sup> et Φ (prima manu).<sup>1</sup> αὐτῷ Ζ.<sup>m</sup> τούτου Ζ. αὐτοῦ Α<sup>1</sup> r. 'Fortasse verba τὸν ἀδελφὸν  
 τούτου delenda sunt' Sauppe.

ally a secondary tense has the optative εἶην in the dependent clause. For the combination of the indicative ἀνήγμαι with the optative εἶην, we may compare Or. 27 (Aphob. Δ) § 19 ἐτόλμα...λέγειν ὡς χρεά τε παμ-πολλά ἐκτέτεκεν...καὶ ὡς πολλὰ τῶν ἐμῶν λάβοιεν. The optative of the perfect and future were less familiar than the optative of the other tenses. It is apparently for this reason that the indicative of the perfect or the future was often retained after secondary tenses, even when the present or the aorist was changed from the indicative to the optative (Goodwin, *Moods and*

appear to have been misled by the indicative ἀνήγμαι into writing ἦν instead of εἶην which is now found in all the best editions.

6. παρὰ τούτου.] 'From the defendant's house.'—ὧν ἐγὼ κ.τ.λ. i.e. 'of the number of those whom I had given him.'

κατέπλευσα τριηραρχῶν.] 'When my voyage as trierarch came to an end.' For the preposition in κατέπλευσα cf. κατήχθη *infra*, and see note on ἀνήγμαι *supra* § 5.

ἐπὶ τούτῳ.] 'In quest of him,' 'to fetch him back.'

7. ἐπὶ πᾶσι.] Not 'praised,' but, rather, 'thanked.' Cf. § 13, ἐπαινέσας με ἐκέλευσε κ.τ.λ. So

mss § 70. 2. R. 2).—The mss

τὰ ἐφόδια τῷ ἀδελφῷ αὐτοῦ, καὶ ᾠδύρετο τὴν αὐτοῦ συμφορὰν, καὶ κατηγορῶν ἅμα τῶν ἑαυτοῦ οἰκείων ἐδεῖτό μου βοηθῆσαι αὐτῷ, ὥσπερ καὶ ἐν τῷ ἐμπροσθεν χρόνῳ ἦν περὶ αὐτὸν ἀληθινὸς φίλος· καὶ κλάων<sup>α</sup> ἅμα, καὶ λέγων ὅτι ἕξ καὶ εἴκοσι μνῶν λελυμένος εἴη, 8 εἰσενεγκεῖν αὐτῷ τι ἐκέλευέ με εἰς τὰ λύτρα. ταῦτα δ' ἐγὼ ἀκούων καὶ ἐλεήσας τοῦτον, καὶ ἅμα ὁρῶν κακῶς διακειμένον καὶ δεικνύοντα ἔλκη ἐν ταῖς κνήμαις ὑπὸ δεσμῶν, ὧν ἔτι τὰς οὐλὰς ἔχει, καὶ ἐὰν κελεύσητε αὐτὸν δεῖξαι, οὐ μὴ ἐβελήσει<sup>ο</sup>, ἀπεκρινάμην αὐτῷ ὅτι καὶ ἐν 1249

<sup>α</sup> Bekk. cum A'r.

<sup>ο</sup> ἐβελήσει Dobree.

κλαίων Z.

οὐ μὴ ἔβελήσῃ Z.

θελήσῃ Z.

ἐβελήσῃ Bekker.

also in Ar. Ranæ 508, κἀλλιστ', ἔπαινω, 'thank you!' where however the notion of declining the offer is also involved.

ἀληθινὸς φίλος.] ἀληθινός is the Latin *verus*; ἀληθής *verax*. 'We may affirm of the ἀληθής that he fulfils the promise of his lips, but the ἀληθινός the wider promise of his name' (Trench, *Synonymy of the New Testament* § VIII.). See also Donaldson, *New Cratylus* § 258 and Kühner *Greek Gr.* i. § 334.

7. [ἀληθινός is 'genuine,' as χρυσός, ἀρετή, &c.; ἀληθής is more directly contrasted with ψευδής, as ἀληθής λόγος. But the distinction is not always observed. Euripides has ἀληθής φίλος Suppl. 867, and σαφής φίλος is not unusual in the same sense. P.]

κλάων.] 'In Tragedy κλαίω and κλάω; in Aristophanes κλάω prevails, in Attic prose κλαίω and κλάω, the latter gaining ground.' Veitch, *Greek Verbs*.

εἴκοσι μνῶν.] Aristotle, *Eth.* v. 10. 9, gives as an example of νομικὸν δίκαιον, conventional right, τὸ μὲν λυτροῦσθαι, the

right of every man to claim his freedom on payment of one mina,—perhaps referring only to slaves. P.]

ἐκέλευε.] The tentative sense of the imperfect 'urged me,' 'prompted me,' 'asked me,'—less strong than the aorist ἐκέλευσε.

8. ἔλκη ἐν ταῖς κνήμαις ὑπὸ δεσμῶν.] Ar. Equites 907, τὰν τοῖσιν ἀντικνημίοις ἐλκῶδρια περι-αλείφειν.

οὐ μὴ ἐβελήσῃ.] 'There is little chance of his consenting.'

Nicostratus would naturally refuse to display the scars left by the galling fetters: to do so would be to confess that he had incurred the disgrace of having been sold as a slave.

The future indicative with οὐ μὴ has here, as elsewhere, the force of an emphatic future with οὐ. The subjunctive, especially in the aorist tense, is still more common in this sense, and is indeed the reading of the MSS in the present passage, the indicative being an apparently unnecessary emendation due to Dobree. [The Greeks said οὐ



τῷ ἔμπροσθεν χρόνῳ εἶην αὐτῷ φίλος ἀληθινός, καὶ νῦν ἐν τῇ συμφορᾷ βοηθήσοιμι<sup>9</sup> αὐτῷ, καὶ τὰς τε τριακοσίας, ὥς τῷ ἀδελφῷ αὐτοῦ ἔδωκα ἐφόδιον ὅτε ἐπορεύετο ἐπὶ τοῦτον, ἀφείην αὐτῷ, χιλίας τε δραχμὰς ἔρανον αὐτῷ εἰς τὰ λύτρα εἰσοίσοιμι. καὶ τοῦτο οὐ λόγῳ μὲν ὑπεσχόμην, ἔργῳ δ' οὐκ ἐποίησα, ἀλλ' ἐπειδὴ οὐκ ἠπόρου<sup>9</sup> ἀργυρίου διὰ τὸ διαφόρως ἔχειν τῷ Φορμίῳ καὶ ἀποστερεῖσθαι ὑπ' αὐτοῦ τὴν οὐσίαν ἣν μοι

<sup>9</sup> Dind. et Z. cum G. H. Schaefer.  
'Cf. § 7. 12'

βοηθήσαιμι Bekker.

<sup>9</sup> εὐπόρου<sup>9</sup> Z.

μὴ φύγῃ, οὐ μὴ ἐλθῇ, and οὐ μὴ ληθῶ, but seem to have preferred οὐ μὴ πρᾶξει to οὐ μὴ πρᾶξῃ. But here too mss generally vary. P.] This construction must be distinguished from the special use of οὐ μὴ with the second person of the fut. indic., to express a strong prohibition. (Goodwin, *Moods and Tenses* § 89, 1 and 2.)

ἀπεκρινάμην.] The Attic form corresponding to ὑπεκρινάμην in Herodotus and ἀπεκρίθην in late Greek, e.g. in the New Testament (Winer's Gr. p. 327, ed. Moulton).

ὅτι ἐν τῷ ἔμπροσθεν χρόνῳ εἶην φίλος, καὶ νῦν βοηθήσοιμι.] 'That I had been his true friend formerly, and would assist him now.' The opt. εἶην represents not the present or future but the imperfect of direct discourse; while the future optative βοηθήσοιμι corresponds to the future ind. of *oratio recta*. 'The fut. opt. in Classic Greek is used only in indirect discourse after secondary tenses to represent a fut. indic. of the direct discourse' (Goodwin, *Moods and Tenses* § 26). βοηθήσαιμι is wrong, because it would represent ἐβοήθησα of the

*oratio recta* and would therefore be inconsistent with νῦν.—Similarly below, εἰσοίσοιμι (contrasted with ἀφείην) represents the fut. indic. of direct discourse.

ἔρανον κ.τ.λ.] 'I would contribute 1000 drachmae towards his ransom,' i.e. 10 minae out of the total amount of 26 minae mentioned in § 7 ad fin. On ἔρανος cf. Hermann, *Privatalt.* § 65, 13.

9. οὐ λόγῳ μὲν ὑπεσχόμην, ἔργῳ δ' οὐκ ἐποίησα.] Cf. de corona § 179 οὐκ εἶπον μὲν ταῦτα οὐκ ἔγραψα δέ, οὐδ' ἔγραψα μὲν οὐκ ἐπρέσβευσα δέ, οὐδ' ἐπρέσβευσα μὲν οὐκ ἔπεισα δέ τοὺς Θεβαίους. Kennedy neatly translates 'nor did I content myself with mere words; but what I promised I performed.'

διαφόρως—τῷ Φορμίῳ.] The context shows that the reference is to the estrangement between Apollodorus and Phormio shortly after the death of Pasion in 370 B.C.—τὴν οὐσίαν refers mainly to the banking-stock which forms the subject of Or. 36, the claim to which was not brought forward until some twenty years later.

ὁ πατήρ κατέλιπε, κομίσας ὡς Θεοκλέα τὸν τότε τρα-  
 πεζίτευοντα ἐκπώματα καὶ στέφανον χρυσοῦν, ἄπερ<sup>7</sup>  
 ἔμοι ἐκ τῶν πατρῶων ὄντα ἐτύγγαυεν, ἐκέλευσα δοῦ-  
 ναι τούτῳ χιλίας δραχμὰς, καὶ τοῦτο ἔδωκα δωρεὰν  
 10 αὐτῷ τὸ ἀργύριον, καὶ ὁμολογῶ δεδωκέναι. ἡμέραις  
 δ' οὐ πολλαῖς ὕστερον προσελθὼν μοι κλάων<sup>8</sup> ἔλεγεν  
 ὅτι οἱ ξένοι ἀπαιτοῦν αὐτὸν<sup>9</sup>, οἱ δανείσαντες τὰ λύτρα,  
 τὸ λοιπὸν ἀργύριον, καὶ ἐν ταῖς συγγραφαῖς εἴη τριά-  
 κονθ' ἡμερῶν αὐτὸν ἀποδοῦναι ἢ διπλάσιον ὀφείλειν,  
 καὶ ὅτι τὸ χωρίον τὸ ἐν γειτόνων μοι τοῦτο οὐδεὶς

<sup>7</sup> Bekker cum A<sup>1</sup>r.<sup>8</sup> Bekk. cum 1A<sup>1</sup>.<sup>9</sup> αὐτὸν Z.<sup>8</sup> παρ' Z cum ΣΦB.

κλαίων Z.

ἐκέλευσα.] 'Told him to give  
 him 1000 dr.' (not ἐκέλευον,  
 which would mean 'tried to  
 induce him to give them.' Cf.  
 ἐκέλευε in § 7 ad fin.).—δωρεάν,  
 not as a loan, but as a free gift.

§§ 10—13. Not many days  
 afterwards, he came once more  
 and told me with tears in his  
 eyes that the persons who had  
 advanced the redemption money  
 were demanding payment of the  
 remaining sixteen minae, and  
 that the agreement required him  
 to refund the money within  
 thirty days, or, failing payment,  
 to be liable for twice the amount.  
 He could raise no money, he  
 said, on the farm in my neigh-  
 bourhood, as that property was  
 already encumbered by a claim  
 upon it on the part of his brother  
 Arethusius; and he asked me to  
 advance the remainder, as other-  
 wise my former gifts would be  
 thrown away, and himself car-  
 ried off to prison as the lawful  
 property of the ransomers. He  
 further promised to collect the  
 whole amount and to repay me.  
 Accordingly, I raised the re-  
 maining sixteen minae on the

security of my lodging-house,  
 and lent him this sum for a year  
 without interest.

10. ἀπαιτοῦν.] ἀπαιτεῖν (cf.  
 ἀπολαμβάνειν) is 'to ask for  
 one's due,' 'to request repay-  
 ment of what is one's own.'  
 So ἀποδοῦναι 'to pay what is  
 due,' 'to make full payment of  
 the sum borrowed.' In Arist.  
 Rhet. II. 7. 5. among the rea-  
 sons which indicate the absence  
 of real gratitude, we have *ὅτι*  
*ἀπέδωκαν ἀλλ' οὐκ ἔδωκαν* ('they  
 merely returned the favour,'  
 simply repaid a debt, and  
 nothing more). Cf. St Luke  
 vi. 34, 35, ἀμαρτωλοὶ ἀμαρτω-  
 τοῖς δανείζουσιν, ἵνα ἀπολάβωσι  
 τὰ ἴσα.

τὸ χωρίον τὸ ἐν γειτόνων μοι.]  
 'the property (or farm) in my  
 immediate neighbourhood.' ἐν  
 γειτόνων seems to be an ellipti-  
 cal phrase equivalent to ἐν τοῖς  
 τῶν γειτόνων 'in my neighbours'  
 lands,' 'in my own neighbour-  
 hood.' In early Greek there is  
 probably no other instance of  
 this phrase, and as ἐκ γειτόνων  
 is not without example in the  
 Attic Orators it appears prefer-

ἐθέλοι οὔτε πρίασθαι οὔτε τίθεσθαι· ὁ γὰρ ἀδελφὸς ὁ Ἀρεθούσιος, οὐ τάνδράποδ' ἐστὶ ταῦτα ἃ νῦν ἀπογέγραπται, οὐδένα ἐρῶ οὔτε ὠνεῖσθαι οὔτε τίθεσθαι ὡς  
 II ἐνοφειλομένου αὐτῷ ἀργυρίου. σὺ οὖν μοι, ἔφη, πόρισον τὸ ἐλλείπον τοῦ ἀργυρίου, πρὶν τὰς τριάκονθ' ἡμέρας παρελθεῖν, ἵνα μὴ ὅ τε ἀποδέδωκα, ἔφη, τὰς

able to the reading in the text, which is obtained by Reiske from τὸ ἐγγειτώνων, found in three good mss. (ΣΑ<sup>1</sup>B). *Inepte Reiskius*, says Dobree, who gives a reference to Aristoph. Plut. 435, ἡ καπηλὶς ἡκ τῶν γειτόνων. For ἐκ γειτόνων cf. Lycurgus, (Leocrates) § 21 οὐδὲ τὰ θρία τῆς χώρας ἀσχυνόμενος ἀλλ' ἐκ γειτόνων τῆς ἐκθρεψάσης αὐτὸν πατρίδος μετοικῶν (cf. *e vicinia* and *exadversum* in the sense of *prope*). For ἐν γειτόνων we find no parallel earlier than Lucian, φιλοφειδῆς § 25 ἐν γειτόνων δὲ ἡμῖν φκει and *convivium* § 22; also *Icaromenippus* § 8, ἐν γειτόνων ἐστὶ τὰ δόγματα καὶ μὴ πολὺ διεσθηκῶτα ('their doctrines are next door to one another and differ but slightly').

πρίασθαι.....ὠνεῖσθαι.] The former is used as the aorist of the latter; ὠνησάμην (though common in Lucian and Plutarch) being never found in early Greek Prose, and perhaps once only in Greek comedy (in a doubtful fragment of Eupolis). The correct aorist and present are found side by side in § 21, πρᾶντο followed by ὁ ὠνούμενος; similarly in Lysias, Or. 7 § 4, πριάμενος occurs with ὠνούμην in the very next sentence.

τίθεσθαι.] lit. 'to get security given you,' hence 'to lend money on security' of land, &c.; 'to lend on mortgage,' as opposed to τίθεναι, lit. 'to give

security,' 'to put in pledge,' 'to mortgage,' 'to borrow on security.'—Hermann, *Privatalt.* § 68. 15, quotes Dionys. Halic. de Isaeo p. 610, which illustrates the general sense of the present passage; δανειζομένῳ οὐδεὶς δὲ ἔδωκεν ἐπ' αὐτοῖς ἐτι πλέον οὐδὲν ἀποδεδωκότι τὰς μισθώσεις.

ἃ νῦν ἀπογέγραπται.] 'which have been scheduled in the present suit (entered in the ἀπογραφή, or specification).'

ὡς ἐνοφειλομένου — ἀργυρίου.] 'on the ground that money was due to himself thereon.' The property was already saddled with a debt due to Arethusius, to whom it was (in part at least) mortgaged. Arethusius, in other words, had a *lien* of money upon the property. In another speech delivered by Apollodorus, Or. 49 (Timoth.) § 45, we have the words ἐνεπισκήψασθαι ἐν τῇ οὐσίᾳ τῇ ἐκείνου ἐνοφειλόμενον αὐτῷ τοῦτο τὸ ἀργύριον.

To contract a fresh loan on the security of property already mortgaged was of course fraudulent and was very properly forbidden. Cf. Bekker's *Anecdota* p. 259 μὴ ἐπιδανείσασθαι ἐπὶ τοῖς αὐτοῖς ἐνεχύροις. Or. 35 (Laerit.) § 21 ἐστὶν ἐν τῇ συγγραφῇ ὅτι ὑποτιθέασι ταῦτ' ἐλευθερά (unencumbered) καὶ οὐδενὶ οὐδὲν ὀφείλοντες, καὶ ὅτι οὐδ' ἐπιδανείσονται ἐπὶ τούτοις παρ' οὐδένα. See also Or. 34 § 6.

11. ἵνα μὴ ὅ τε ἀποδέδωκα, τὰς

χιλίας δραχμὰς, ἀπόλωνται, καὶ αὐτὸς ἀγώγιμος γένω-  
μαι. συλλέξας δ', ἔφη, τὸν ἔρανον, ἐπειδὰν τοὺς ξένους  
ἀπαλλάξω, σοὶ ἀποδώσω ὃ ἂν μοι χρήσης. οἶσθα  
δ', ἔφη, ὅτι καὶ οἱ νόμοι κελεύουσι τοῦ λυσαμένου ἐκ  
τῶν πολεμίων εἶναι τὸν λυθέντα, ἐὰν μὴ ἀποδιδῶ τὰ  
12 λύτρα. ἀκούων δ' αὐτοῦ ταῦτα καὶ δοκῶν οὐ ψεύδεσθαι  
ἀπεκρινάμην αὐτῷ ἥπερ ἂν νέος τε ἄνθρωπος καὶ  
οἰκείως χρώμενος, οὐκ ἂν νομίσας ἀδικηθῆναι, ὅτι, ὦ  
Νικόστρατε, καὶ ἐν τῷ πρὸ τοῦ<sup>υ</sup> σοι χρόνῳ φίλος ἦν  
ἀληθινός, καὶ νῦν ἐν ταῖς συμφοραῖς σου, καθ' ὅσον  
ἐγὼ ἐδυνάμην, βεβοήθηκα. ἐπειδὴ δ' ἐν τῷ παρόντι  
οὐ δύνασαι πορίσαι ἅπαντα τὰ χρήματα, ἀργύριον μὲν

<sup>υ</sup> Bekker.

πρὸ τούτου Z cum FΣΦ.

χιλίας δραχμὰς, ἀπόλωνται.] i. e.  
ἵνα μὴ αἱ τε χιλίαι δραχμαί, ἀς  
ἀποδέδωκα, ἀπόλωνται. τὰς δραχ-  
μὰς is here attracted into the  
same case as the relative δ, the  
object of ἀποδέδωκα. Or. 20  
(Lept.) § 18, οὐδεὶς ἐστ' ἀτελής,  
οὐδ' οἷς αὐτὸς ἔγραψε, τοὺς ἀφ'  
'Ἀρμοδίου καὶ Ἀριστογείτονος.  
Plato, Phaedo p. 66 ε, ἡμῖν ἐσται  
οὐ ἐπιθυμούμεν τε καὶ φάμεν ἐρασ-  
ταί εἶναι φρονήσεως. (See Küh-  
ner, *Greek Grammar*, II. § 556,  
4.)

ἀγώγιμος.] 'liable to seizure.'  
Or. 23 (Aristoar.) § 11 ἂν τις  
αὐτὸν ἀποκτείνῃ, ἀγώγιμον εἶναι.

τοῦ λυσαμένου...εἶναι τὸν λυ-  
θέντα.] 'the laws enact that a  
person ransomed from the  
enemy shall be the property of  
the ransom, if the former fail  
to pay the redemption money.'

12. ἥπερ ἂν.] sc. ἀποκρίναιτο.  
οὐκ ἂν νομίσας ἀδικηθῆναι. i. e.  
οὐ νομίσας ἀδικηθῆναι ἂν. ἂν is  
often separated from its verb  
by such words as οἶμαι, δοκῶ,  
οἶδα, νομίζω. Xen. *Cyrop.* VIII.  
7. 25, ἡδέως ἂν μοι δοκῶ κοινω-  
ρῆσαι (Goodwin, *Moods and*

*Tenses* § 42, 2, p. 62). This is  
most frequently the case when  
ἂν is closely attracted to an  
emphatic negative, e. g. Or. 36  
§ 49, οὐ γὰρ ἄλλο γ' ἔχεις οὐδὲν  
ἂν ποιῆσαι.

δτι, ὦ Νικόστρατε, κ.τ.λ.] δτι,  
which usually introduces an in-  
direct construction, is here fol-  
lowed by *oratio recta*, and need  
not be translated. Xen. *Cyrop.*  
VII. 3, 3 ἀπεκρίνατο δτι, ὦ δέσ-  
ποτα, οὐ ζῇ (Goodwin, *Moods*  
*and Tenses*, § 79).

ἐπειδὴ...οὐ δύνασαι κ.τ.λ.] G.  
H. Schaefer suggests ἐπειδὴ δ'  
οὐ δύναμαι (for δύνασαι) πορί-  
σαι...ἀργύριον γὰρ (for μὲν) ἐμοὶ  
οὐ πάρεστιν...τῶν (om. δέ) κτη-  
μάτων...κίχημι ὃ τι βούλει. He  
holds that this reply suits the  
request of Nicostatus in § 11,  
πέρισον τὸ ἐλλείπον τοῦ ἀργυρίου,  
better than the manuscript  
reading; the proposed alteration  
does not, however, commend  
itself as conclusive; indeed, the  
emphatic pronoun ἐμοί, and the  
words οὐδ' ἔχω οὐδ' αὐτοῖς, are  
more appropriate as a contrast  
to the second person δύνασαι than

ἐμοὶ οὐ πάρεστιν, οὐδ' ἔχω οὐδ' αὐτὸς, τῶν δὲ κτημάτων σοι τῶν ἐμῶν κίχρημι ὅ τι βούλει, θέντα τοῦ ἐπιλοιπότου ἀργυρίου ὅσον ἐνδεῖ σοι, ἐνιαυτὸν ἀτόκῳ χρησθαι τῷ ἀργυρίῳ καὶ ἀποδοῦναι τοῖς ξένοις. συλλέξας  
 13 δ' ἔρανον, ὥσπερ αὐτὸς φῆς, λύσαι μοι. ἀκούσας δ' οὗτος ταῦτα καὶ ἐπαινέσας με ἐκέλευσε τὴν ταχίστην πρᾶξαι, πρὶν ἐξήκειν τὰς ἡμέρας ἐν αἷς ἔφη δεῖν τὰ λύτρα καταθεῖναι. τίθημι οὖν τὴν συνοικίαν ἐκκαίδεκα

to the proposed substitution δύναμαι. The sense of the text is simply this: 'inasmuch as you are at present unable to pay the whole of the debt, although I have no money by me, nor indeed have I any at all (e.g. at my banker's) any more than yourself, I freely grant you the loan of any part of my property; you may mortgage it for the remainder of your debt and have the use of the money for a year without interest.'

κίχρημι] here, as elsewhere, of a friendly loan, *commodare*, as contrasted with *δανείζω*, which is generally used of a money-lender's loan on interest, *mutuo dare*. Or. 49 (Timoth.) § 23, *στρώματα καὶ ἱμάτια καὶ ψάλας ἀργυρᾶς δύο...ἐχρησε, καὶ τὴν μῶν τοῦ ἀργυρίου, ἣν ἐδανείζετο, ἐδάνεισεν*, where, in the very next section, *ἐδανείσατο* is applied to the furniture as well as to the money; *τὰς ψάλας... ἃς ἤτήσατο ὅτεπερ καὶ τὰ στρώματα καὶ τὴν μῶν τοῦ ἀργυρίου ἣν ἐδανείσατο*.

θέντα κ.τ.λ.] sc. *θεῖναι τι* (τῶν κτημάτων) τοῦ ἀργυρίου καὶ χρησθαι κ.τ.λ. For the genitive (of price) cf. *infra* § 13, *τίθημι τὴν συνοικίαν ἐκκαίδεκα μῶν*. (For numerous instances of gen. after words like *ᾠκείσθαι*, *πωλεῖν*,

*περιδοῦσθαι*, see Kühner, II. § 418. 6. a).—*ὅσον ἐνδεῖ* sc. 16 minae, Apollodorus having already (§ 8 fin.) provided 10 out of the 26 minae (§ 7 fin.).

συλλέξας ἔρανον.] Mid. § 184, *ἐγὼ νομίζω πάντας ἀνθρώπους ἐράνουσι φέρειν παρὰ τὸν βίον αὐτοῖς, οὐχὶ τοῖσδε μόνουσι οὐς συλλέγουσιν οἱ τινες* κ.τ.λ. Cf. Antiphon, p. 117. 19. P.]

λύσαι μοι] sc. *τὸ κτήμα*. 'Release my property from the mortgage,' or (with Kennedy), 'pay off my mortgage as you promise.' So, in another speech delivered by Apollodorus, Or. 50 (Polycles) § 28 *ὅνα λύσωμαι μοι τὸ χωρίον, ἀποδόντες...τριάκοντα μῶας*.

13. *τὴν συνοικίαν*.] Probably 'the lodging-house' mentioned in Or. 45 § 28, and there valued at 100 minae. This security would amply suffice for a loan of 16 minae, and the rate of 16 per cent. below mentioned would, if paid on the value of the house, exactly produce the 16 minae required. In consideration of lending this sum on the security in question, Arcesias would further receive interest (from Apollodorus) at the rate of 16 per cent. on the 16 minae. Cf. Or. 36 § 6, *ἐπὶ συνακταῖς δεδανεικὼς ἦν* (with note). Aeschin. Timarch. § 124 *ὅπου πολλοὶ*

μνῶν Ἀρκέσαντι Παμβωτάδῃ, ὃν αὐτὸς οὗτος προὔ-  
ξήτησεν, ἐπὶ ὀκτῶ ὀβολοῖς τὴν μνᾶν δανείσαντι τοῦ  
μηνὸς ἐκάστου. λαβὼν δὲ τὸ ἀργύριον οὐχ ὅπως χάριν  
τινά μοι ἀποδίδωσιν ὧν εὖ ἔπαθεν, ἀλλ' εὐθέως ἐπε-  
βούλευσέ μοι, ἵν' ἀποστερήσειε τὰργύριον καὶ εἰς ἔχ-  
θραν κατασταίῃ, καὶ ἀπορούμενος ἐγὼ τοῖς πράγμασι

† Bekker.

προεξήτησεν Z cum A<sup>1</sup>, (προεξέτισεν F, προσε-  
ξήτησεν Σ. 'litera σ in προς a manu recentiore deleta' Dind.).

μισθωσάμενοι μίαν οἰκίαν διελό-  
μενοι ἔχουσι, συνοικίαν καλοῦ-  
μεν, ὅπου δὲ εἰς ἐνοικία, οἰκίαν.

Παμβωτάδῃ.] Harpocration,  
Δημοσθένῃς ἐν τῷ πρὸς Νικόστρα-  
τον. Παμβωτάδαι τῆς Ἐρεχ-  
θίδος δήμος. Suidas gives the  
name of the deme as Παμβῶται.  
On προὔξήτησεν, 'introduced,'  
cf. Or. 37 (Pant.) § 11.

ἐπὶ ὀκτῶ ὀβολοῖς τὴν μνᾶν τοῦ  
μηνὸς ἐκάστου.] 'Who lent me  
the money at an interest of 8  
obols per mina per month,'  
i. e.  $12 \times 8$  obols per 600 obols  
(or '16 per cent.'), per annum.  
When the interest is quoted at  
so many obols per mina per  
month, we have simply to dou-  
ble the number of obols to find  
the rate per cent. per annum.  
Thus ἐπὶ πέντε ὀβολοῖς is 10 per  
cent.: again ἐπὶ δραχμῇ (i. e. ἐφ'  
ἑξ ὀβολοῖς) is 12 per cent. and ἐπὶ  
τρίτῳ ἡμιωβελίῳ (i. e.  $2\frac{1}{2}$  obols  
per mina per month) is 5 per  
cent. per annum. From 12 to 18  
per cent. appear to have been the  
commonest rates of interest at  
Athens. (For this, and another  
Athenian method of reckoning  
rates of interest, see Donald-  
son's *Greek Grammar* ad fin., or  
Diot. Antiq. s. v. *Fenus*.)

§§ 13 cont.—15. As soon as  
he had got the sixteen minae, so  
far from being grateful, he actu-  
ally laid a plot to rob me of them,

calculating on my being driven  
by my youthful inexperience into  
foregoing the attempt to recover  
the money which he owed me.  
First, as I was then engaged in  
lawsuits against my relations,  
he made overtures to them and  
pledged himself to make common  
cause with them. Next, as he  
was acquainted with my proposed  
pleadings, he disclosed them to  
my opponents, and further got  
me condemned to pay a fine in a  
case for which I had never really  
received a summons, though he  
fraudulently entered the name  
of his brother Arethusius as one  
of the witnesses to the summons  
alleged. Moreover, in the event  
of my bringing to a preliminary  
hearing the lawsuits which I  
had obtained leave to institute  
against my relations, they were  
preparing to inform against me  
as a debtor to the treasury and  
to get me thrown into prison.  
Again, Arethusius actually got  
me condemned as a debtor to the  
treasury, made a forcible entry  
into my house and carried off  
all my furniture, though it was  
worth far more than the 'debt'  
in question.

οὐχ ὅπως.] non modo non.  
Lit. I do not say that he did,  
(because he did not do it).  
Trans. 'so far from making any  
grateful return, &c.'

νέος ὧν ὃ τι χρῆσαιμην, καὶ ἄπειρος πραγμάτων, ὅπως  
μὴ εἰσπράττοιμι αὐτὸν τὰργύριον οὐ ἢ συνοικία ἐτέθη,  
14 ἀλλ' ἀφείην αὐτῷ. πρῶτον μὲν οὖν ἐπιβουλεύει μοι  
μετὰ τῶν ἀντιδίκων, καὶ πίστιν αὐτοῖς δίδωσιν· ἔπειτ' 125 I  
ἀγώνων μοι συνεστηκότων πρὸς αὐτοὺς τοὺς τε  
λόγους ἐκφέρει μου εἰδώς, καὶ ἐγγράφει τῷ δημοσίῳ

π καὶ ἐκγράφει FΦ.

om. Σ.

ὃ τι χρῆσαιμην.] 'What to do with (how to treat) the matter.'

ἢ ἀποστερήσει... καὶ ἀπορούμενος ἐγὼ κ.τ.λ., ὅπως μὴ εἰσπράττοιμι.] ὅπως μὴ is somewhat out of place, indeed ὅπως is really superfluous, as the whole sentence depends on the particle of purpose ὡς.

14. τῶν ἀντιδίκων.] Referring principally to his opponent Phormio, (cf. § 9, διαφόρων ἔχειν τῷ Φορμίωνι, and § 14 ad fin. τῶν οἰκείων τῶν ἀδικούντων με), but a litigious person like Apollodorus doubtless had many such opponents, even apart from those whose lawsuits are expressly recorded in the orations that have come down to us (see Or. 86 § 53).

τοὺς λόγους ἐκφέρει μου εἰδώς.] 'Divulges my arguments, with which he was acquainted.'

ἐγγράφει τῷ δημοσίῳ ἀπρόσκλητον κ.τ.λ.] Lit. 'registers (against me) for the state-treasury an unsummoned fine of 610 drachmae arising from production of property in court,' i.e. 'enters me as a state-debtor to the amount of 610 drachmae, demanded from me without formal citation, as a fine for non-production of property in court;' or, as Prof. Kennedy renders it, 'registers (against me) a fine to the treasury... upon a writ of exhibit of which I had no notice by legal summons.'

The note on this sentence in Jerome Wolf's edition of Demosthenes (A.D. 1547) deserves quotation not only as a signal instance of modesty and candour, but also to illustrate the difficulties which embarrassed a commentator in the sixteenth century, owing to the inadequacy of the books of reference then accessible. '*Sententia quae sit, Oedipus divinet. Me et Budaeus* (sc. Budaei commentarii linguae Graecae) *et lexica Graeca Latinaque omnia destitunt. Quaesivi ἀπόκληρος* (sic), *quaesivi ἐμφανής, quaesivi κατάστασις, quaesivi ἐξ ἐμφανῶν καταστάσεων. Sed aut muta aut ἀπρόσδιόνυσα omnia. Doctiores, si boni viri sunt, explicant potius, quam me sugillant.*'

Before entering on the details, it may be well to explain the general drift of the passage. Apollodorus is engaged in a variety of lawsuits in one of which we must suppose that he was alleged to be in possession of certain articles, probably documents, either actually belonging to one of his opponents or such that the latter had a legal right to demand production of them for purposes of inspection. The proper course on the part of Nicostratus, who had made common cause with one of these opponents, would have been to serve Apollodorus with a summons or citation, duly

ἀπρόσκλητον ἐξ ἐμφανῶν καταστάσεως ἐπιβολὴν ἐξ-  
ακοσίας καὶ δέκα δραχμὰς, διὰ Λυκίδου τοῦ μυλωθροῦ

attested by witnesses, requiring him to produce the articles in question. If Apollodorus had, without assigning a legally valid reason, refused to do so, Nicostratus would have been entitled to have a fine levied on Apollodorus and to get him entered as a debtor to the state for the amount of that fine. Instead of this, it appears that Nicostratus served no citation on Apollodorus (the ἐπιβολὴ was ἀπρόσκλητος), thus giving the latter no opportunity for shewing cause against the production of the articles demanded; he then proceeded to obtain a verdict against his opponent and to have him registered as owing 610 drachmae to the public treasury.

ἐγγράφει.] 'registers (against me),—a common term for a formal entry or registration, especially of a debt or fine. Or. 43 § 71 *lex*, ἐγγραφόντων οἱ ἀρχοντες... τοῖς πράκτορσιν (the Collectors) δὲ τῷ δημοσίῳ γίνεται. Or. 27 § 38 προσοφείλοντας ἡμᾶς ἐτέγραψεν. Or. 25 (Aristog. α) § 4, ὀφείλοντα τῷ δημοσίῳ καὶ ἐγγεγραμμένον ἐν ἀκροπόλει (cf. *ib.* § 70, ἐγγράφονται πάντες οἱ ὀφλισκάοντες, ὅρος δ' ἡ σάνις ἢ παρὰ τῇ θεῷ κειμένη).

τῷ δημοσίῳ.] For τὸ δημόσιον in the sense of τὸ κοινὸν 'the treasury,' cf. Isaeus, Or. 10 § 20 ἐμοὶ τι ἀτύχημα πρὸς τὸ δημόσιον συνέβη. Meid. § 182 and Deinarchus, Or. 2 § 2, ὀφείλων τῷ δημοσίῳ. See Or. 39 (Boeot.) § 14.

ἀπρόσκλητος.] This is the reading of the *codex Augustanus primus* (A<sup>1</sup>), first accepted by Reiske for the *vulgata lectio*

ἀπόκληρον which is unintelligible. ἀπρόσκλητος ἐπιβολὴ 'a fine without a citation,' here means 'a fine inflicted in a case for which no citation has been issued.' Similarly *infra* § 15 ἀπρόσκλητον δίκην and Meid. § 92 τὴν κατὰ τοῦ διαιτητοῦ γνώσιν, ἣν ἀπρόσκλητον κατεσκεύασεν, αὐτὸς κυρίαν ἑαυτοῦ πεποιήται.

ἐξ ἐμφανῶν καταστάσεως κ.τ.λ.] 'a fine upon a writ of *exhibit*, by reason of (arising out of) an ἐμφανῶν κατάστασις, i.e. a case of formal production of property in court.' Isaeus, Or. 6 § 31, ἀπῆτει τὸν Πυθόδωρον τὸ γραμματεῖον καὶ προσεκαλέσαστο εἰς ἐμφανῶν κατάστασιν. καταστάντος δὲ ἐκείνου πρὸς τὸν ἀρχοντα, ἔλεγεν ὅτι βούλοιτ' ἀνελεῖσθαι τὴν διαθήκην. Dem. Or. 56 § 3 τὸ ἐνέχυρον καθίστησιν εἰς τὸ ἐμφανές. *ib.* § 38, εἰ μὴ παρασχῆς τὰ ὑποκείμενα ἐμφανῇ. Or. 52 § 10 μάρτυρας ἔχων ἤξιον ἐμφανῇ καταστήσαι τὰ χρήματα. Cf. the Roman *exhibitio* (Ulpian, Digest, 29. 3. 2, *exhibito tabularum testamenti*); and *actio ad exhibendum* (Ulpian, Digest, 43. 29. 1, *exhibere est in publicum producere*). Hence comes our common legal term, an *exhibit* or writ of production. With ἐμφανῇ καταστήσαι, we may further compare our ordinary phrase *sub poena duces tecum*, used when a solicitor (for instance) holds a document which the court can require to be put in, for the furtherance of the ends of justice.

ἐπιβολήν.] Harpocr. ἐπιβολή ἢ ζημία. Lysias, Or. 20 § 14 ἡνάγκαζον, ἐπιβολὰς ἐπιβάλλοντες καὶ ζημιούντες, and *ib.* Or. 30 § 3, ἐπιβολήν is Reiske's certain cor-



ποιησάμενος τὴν δίκην. κλητῆρα δὲ κατ' ἐμοῦ τὸν τε<sup>α</sup>  
ἀδελφὸν τὸν αὐτοῦ<sup>β</sup> Ἀρεθούσιον τοῦτον ἐπιγράφεται,  
οὐπὲρ ἐστὶ τὰνδράποδα ταῦτα, καὶ ἄλλον τινά<sup>γ</sup> καὶ  
παρεσκευάζοντο, εἰ ἀνακρινοίμην κατὰ τῶν οἰκείων  
τῶν ἀδικούντων με τὰς δίκας ἃς εἰλίχγειν αὐτοῖς, ἐν-  
15 δεικνύμαι με<sup>δ</sup> καὶ ἐμβάλλειν εἰς τὸ δεσμωτήριον. ἔτι  
δὲ πρὸς τούτοις ὁ Ἀρεθούσιος<sup>ε</sup> ἀπρόσκλητόν μου ἐξ-  
ακοσιῶν<sup>ς</sup> καὶ<sup>ς</sup> δέκα δραχμῶν δίκην καταδικασάμενος ὡς  
ὀφείλοντος τῷ δημοσίῳ<sup>ο</sup>, κλητῆρας ἐπιγραψάμενος καὶ

<sup>α</sup> Bekker. om. Z cum Σ (prima manu). 'τε in mar-  
gine a manu prima Σ' Dind.

<sup>β</sup> Bekker cum A<sup>1</sup>r. + τὸν Z cum FΣΦ.

<sup>γ</sup> ἐνδεικνύμαι με [ὡς ὀφείλοντα τῷ δημοσίῳ] Z (Sauppe). ἐνδει-  
κνύμαι με Bekker. 'cf. § 15 l. 4. fortasse verba ὡς—δημοσίῳ etiam  
hoc loco a grammatico addita sunt' Z.

<sup>δ</sup> Bekker. ὁ Ἀρεθούσιος om. Z (Sauppe).

<sup>ε</sup> om. Bekker cum libris. addidit Ulrichs. [ἐξακοσίων καὶ] δέκα Z.

<sup>ς</sup> cum Reiskio Bekker. ὡς ὀφείλοντος τῷ δημοσίῳ om. Z  
(Sauppe). ὡς ὀφείλοντα τῷ δημοσίῳ libris. Cf. § 14 l. 11.

rection for ἐπιβουλὴν, a mistake  
possibly due to τὴν ἐπιβουλὴν  
in the middle of the next sec-  
tion. Another instance of the  
same confusion may be noticed  
in Isocr. Paneg. § 148 διαμαρ-  
τῶν τῆς ἐπιβουλῆς where the  
best ms wrongly has ἐπιβολῆς.

διὰ Λυκίδου... ποιησάμενος τὴν  
δίκην.] 'having got the case  
brought on by means of Ly-  
cidas, who as the tool of Nicos-  
tratus was either a merely no-  
minal prosecutor or possibly a  
venal arbitrator. For this use  
of διὰ referring to a mere 'cat's-  
paw' see note on Or. 45 § 31.

κλητῆρα... ἐπιγράφεται.] 'en-  
ters as witnesses.' Meid. § 87  
κλητῆρα οὐδ' ὄντιν οὖν ἐπιγραψά-  
μενος and Or. 54 § 31 ἐπιγρά-  
φεται μάρτυρας, i.e. 'endorses on  
the deposition the names of  
certain persons as witnesses.'

ἀνακρινοίμην... τὰς δίκας.] 'in  
the event of my bringing to a  
preliminary hearing the suits

which I had instituted against  
my relatives (Phormio, &c.) who  
were doing me wrong.' Harpoer.  
ἀνάκρισις ἐστὶν ἐξέτασις ὑφ' ἐκασ-  
τῆς ἀρχῆς γινόμενη πρὸ τῶν δικῶν  
περὶ τῶν συντευνόντων· εἰς τὸν  
ἀγῶνα· ἐξετάζουσι δὲ καὶ εἰ δλωσι  
εἰσάγειν χρή.

ἐνδεικνύμαι με.] 'to lay an in-  
formation (ἐνδείξις) against me'  
for undertaking a prosecution,  
while still a debtor to the trea-  
sury. Or. 58 (Theocrin.) § 14  
κελεύει (ὁ νόμος) κατὰ τε τῶν  
ὀφειλόντων τῷ δημοσίῳ τὰς ἐν-  
δείξεις τὸν βουλόμενον ποιεῖσθαι  
τῶν πολιτῶν... By ἐνδείξις is  
meant a criminal information  
against a person acting when  
under legal disability. It was  
brought in writing before the  
Archon and was a very sum-  
mary process. (Cf. Or. 39 § 14  
and Pollux there quoted.)

15. ἀπρόσκλητος δίκη.] He-  
sychius, ἡ μὴ τυχοῦσα τῶν κα-  
λουμένων κλητόρων κατὰ τὸν νό-

εἰσελθὼν εἰς τὴν οἰκίαν βία τὰ σκεύη πάντα ἐξεφόρῃσε, πλέον ἢ εἴκοσι μυνῶν ἄξια, καὶ οὐδ' ὅτιοῦν κατέλιπεν. ὅτε δὲ τιμωρεῖσθαι ᾤμην δεῖν καὶ ἐκτίσας τῷ δημοσίῳ τὸ ὄφλημα, ἐπειδὴ ἐπυθόμην τὴν ἐπιβουλὴν, ἐβάδιζον ἐπὶ τὸν κλητῆρα τὸν ὁμολογῶντα κεκλητευκέναι τὸν Ἀρεθοῦσιον<sup>4</sup> τῆς ψευδοκλητείας κατὰ τὸν

<sup>4</sup> Bekker.

κεκλητευκέναι, τὸνδ' Ἀρεθοῦσιον, *Z. cum ΣΦ.*

μοῦ καὶ διὰ τοῦτο οὐκ ἦν εἰσαγώγιμος.

κλητῆρας ἐπιγραφάμενος.] i.e. 'having endorsed it with the names of summoners.' As the δίκη was ἀπρόσκλητος, i.e. as there were no κλητῆρες, this endorsement was virtually a forgery.

τὰ σκεύη πάντα ἐξεφόρῃσε.] 'carried out all my furniture' (i.e. distrainted upon me for my alleged debt). Or. 22 (Androt.) § 57, βαδίζω ἐπ' οἴκῳ καὶ σκεύη φέρειν μὴδὲν ὀφειλόντων ἀνθρώπων. Arethusius seized property worth more than 20 minae, although the 'debt' amounted to little more than six. (610 dr.=6 m. 10 dr.)

§§ 15—18. On my proceeding against Arethusius for fraudulent citation, he came into my property at night and laid waste my orchard with all its fine fruit-grafts, its vines and its olive-trees. Further they put up a boy of free birth to go in broad daylight and pluck the flowers of my rose-bed, hoping I would mistake him for a slave and strike him, and thus make myself liable to an indictment for assault. In this they were disappointed. Thereupon, as soon as I had brought to the preliminary stage before the magistrate my indictment of Arethusius for fraudulent citation, and was on the point of taking it before the jury,

he lay in wait for me when I was coming up from the Peiraeus late at night and violently assaulted me, and was only prevented from dashing me into the quarries by some people hearing my cries and rushing to the rescue.

Not many days after, I brought my case before the jury and with the greatest ease got Arethusius convicted. Though the jury proposed to condemn him to death, I begged them to acquiesce in the penalty proposed by my opponents themselves, a fine of one talent.

ὅτε δὲ—ἐβάδιζον.] lit. 'When I thought it my duty to avenge myself, and on hearing of the plot, was proceeding, after payment of the debt, to take measures against Arethusius, &c.' In translating the whole sentence it is convenient to omit ὅτε, to render φῆμιν and ἐβάδιζον as principal verbs, and to begin a new English sentence with the first words of the apodosis, ἐλθὼν εἰς τὸ χωρίον κ.τ.λ.

καὶ ἐκτίσας... ἐβάδιζον.] This is the reading of the Paris ms Σ. Bekker adopts ἐκτίσας... καὶ ἐβάδιζον, which gives us a rather less compact construction.

τὸν Ἀρεθοῦσιον.] to be taken in apposition with τὸν κλητῆρα. The Zurich editors adopt the reading τὸνδ' Ἀρεθοῦσιον found in the Paris ms Σ and another

νόμον, ἐλθὼν εἰς τὸ χωρίον τῆς νυκτός, ὅσα ἐνὴν φυτὰ ἀκροδρύνων γενναῖα ἐμβεβλημένα, καὶ τὰς ἀναδεδυρά-

good us (Φ). But the words in the text may after all be only an interpolated explanation of τὸν κλητήρα (cf. § 10).

τῆς ψευδοκλητείας.] The genitive is here used after βαδίζειν ἐπὶ τινα on the analogy of the construction commonly found after διώκειν, εἰσάγειν and ἐπεξερχομαι (in the legal sense). Plato, Leg. 888 B, ἐπεξίτω φόβου τῷ κτείναντι. Or. 49 (Apollodorus v. Timoth.) § 56 μὴ... ἐπὶ τόνδε κακοτεχνῶν ἔλθοιμι. The phrase βαδίζειν ἐπὶ τινα is also found (though not in any legal sense) in Plutarch's *Theseus*, 7, ἐπὶ τοὺς πανταχοῦ πονηροὺς βαδίζοντα καθάειρεν γῆν καὶ θάλατταν (of Hercules).

ὅσα ἐνὴν φυτὰ—διαθεῖεν.] 'he cut off all the choice fruit-grafts that were there, and the trained vines besides; he also broke down the nursery-beds of olive-trees set in rows around my plantations, making worse havoc than would ever be made, even by enemies in war.'

ἀκροδρύνων.] The primary sense of the word is 'fruit,' the secondary 'fruit-trees.' Though used in early writers of any edible fruit, later authorities restrict it to the hard-shelled varieties alone. Compare the distinction quoted from Galen in the *Geoponica* x. 74. 4, Ὁρφεὺς ἀκρόδρνα πάσαν ὀπώραν καλεῖ. Γάληνος δὲ καὶ οἱ τὰ φυτουργικὰ συνταξάμενοι ἀκρόδρνα φασὶ τὰ σκέπων ἔχοντα, ὅλον ῥόας, κάρνα, ἀμνυδάδας καὶ εἰ τι ὅμοιον (pomegranates, nuts, almonds and the like), ὀπώρας δὲ τὰ ἀσκεπῇ ὡς μήλα, ἀπίους καὶ τὰ ὅμοια (apples, pears, &c.). In Xenophon, *Oecon.* 19 § 12, we have τὰλλα

ἀκρόδρνα πάντα after mention of vines and fig-trees, and in Plato, *Critias*, 115 B, τὸν ἡμέρον καρπὸν, τὸν τε ξηρὸν (different kinds of grain)... καὶ τὸν ὅσος ξύλινος (fruits of hard rind). παιδιᾶς τε ὅς ἐνεκα ἡδονῆς τε γέγονε δυσθησαύριστος ἀκροδρύνων καρπός, ὅσα τε παραμύθια πλησμονῆς μεταδόρπια ἀγαπητὰ κάμνοντι τίθεμεν. *Athenaeus*, II. § 88 p. 52, οἱ Ἀττικοὶ καὶ οἱ ἄλλοι συγγραφεῖς κοινῶς πάντα τὰ ἀκρόδρνα κάρνα λέγουσιν, *ib.* III. § 20 p. 81, Γλαυκίδης δὲ φησὶν ἄριστα τῶν ἀκροδρύνων εἶναι μήλα κυδώνια (quinces), φαύλια, στρουθία (two other kinds of quince).

The etymological formation of the word, referring as it does originally to what we may call the 'tree-tips,' or the fresh growth at the furthest extremities of the branches, may be illustrated by the passage in *Hesiod's Works and Days* 231, ὀφρεῖ δὲ δρύς ἀκρὴ μὲν τε φέρει βαλάνους, μέσση δὲ μελίσσας, and *Theocritus*, xv. 112, παρ δὲ οἱ ὄρια κείται, ὅσα δρυὸς ἄκρα φέρωνται.

[It seems to me that ἀκρόδρνα meant trees which produced fruit chiefly on the upper boughs, as distinguished from vines, from which the grapes hang in clusters nearer to the ground. The edible acorn, βάλανος, may have been specially so described, if we limit δρύς to the sense of 'oak-tree.' P.]

γενναῖα.] 'of a choice kind,' 'of a good stock.' Plato, *Leg.* 844 E, τὴν γενναίαν νῦν λεγόμενῃ σταφυλῇ ἢ τὰ γενναῖα εἴκα ἐρονομαζόμενα ὀπωρίξεν. (Cf. *nobilis* in *Martial* III. 47. 7, *frutice nobili caules* and as an epithet

δας ἐξέκοψε, καὶ φυτευτήρια ἐλαῶν\* περιστοίχων κατέκλασεν, οὕτω δεινῶς ὥς οὐδ' ἂν οἱ πολέμιοι διαθίεν.  
16 πρὸς δὲ τούτοις μεθ' ἡμέραν παιδάριον ἄστον εἰσπέμ-

\* Bekker cum GA<sup>1</sup>.

ἐλαίων Z cum FΣΦ.

of una ib. iv. 44. 2 and *olivae* v. 78. 19.) Athenaeus, xiv. § 68 p. 653, *γενναῖα λέγει ὁ φιλόσοφος* (sc. Plato u. s.), *ὥς καὶ Ἀρχιλόχος· παρέλθε, γενναῖος γὰρ εἰς. ἥ τὰ ἐπιγεγεννημένα, ὅλον τὰ ἐπεμβεβλημένα· ὁ γὰρ Ἀριστοτέλης καὶ ἐπεμβολάδας ἀπίους ὀνομάζει τὰς ἐγκεκεντρισμένας.* (The second explanation is clearly wrong. I only cite it to illustrate the next note.)

*ἐμβεβλημένα.] 'grafted.'* Harpocration s. v. *ἀντὶ τοῦ ἐγκεκεντρισμένα Δημοσθένης ἐν τῷ πρὸς Νικόστρατον, καὶ Ἀριστοτέλης δ' ἐμβολάδας ἀπίους λέγει τὰς τοιαύτας.*

*ἀναδενδράδας.] 'trained vines' growing on trees, 'tree-vines.'* The climbing vine is contrasted with the ground-vine of Lesbos in the *Pastor* of Longus, ii. 1 *πᾶσα κατὰ τὴν Λέσβον ἀμπέλος ταπεινὴ, οὐ μετέωρος οὐδὲ ἀναδενδράς, ἀλλὰ κάτω τὰ κλήματα ἀποτενύουσα καὶ ὥσπερ κυττὸς νεμομένη.* Cf. Polyb. xxxiv. 11. 1, *ἀναδενδρίτης ὀλivos* and *Geoponica* v. 61, *ἀναδενδρίτης*, also Strabo v. p. 231, *τὸ δὲ Καΐκουβον (Cae-cubum) ἑλωδὲς ὃν εὐνοισάτην ἀμπέλον τρέφει τὴν δενδρίτιν.* Columella iv. 1. 8, *vitis arbutiva*, and Pliny N. H. xvii. 23 § 199 sqq. *nobilis vina non nisi in arbutis gigni.* The best trees for the purpose were, according to Pliny, the elm (*amicta vitibus ulmo* of Hor. Ep. i. 16. 3) and the poplar; next to these the ash, the fig-tree and the olive. (See further St John's *Manners and Customs of Ancient Greece*, ii. 344—8.)

*φυτευτήρια.]* nursery-beds of young olive-trees.

*ἐλαίων περιστοίχων.]* i. e. 'olives planted round the beds of the garden.' Harpoer. *περίστοιχοι· Δημοσθένης ἐν τῷ πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων. Διδυμος δέ τι γένος ἐλαίων περιστοίχους καλεῖ ἄς Φιλόχορος στοιχάδας προσηγόρευσε. μήποτε ('perhaps') δὲ περιστοίχους ἐκκληκεν ὁ ῥήτωρ τὰς κύκλῳ περὶ τὸ χωρίον ἐν στοίχῳ πεφυκυίας* (cf. Ar. Acharn. 997, *περὶ τὸ χωρίον ὅταν ἐλᾷδας ἐν κύκλῳ*). Pollux v. 86, *Σόλων δὲ καὶ στοιχάδας τινὰς ἐλάδας ἐκάλεσε ταῖς μορφαῖς ἀντιτιθεῖς, ὡς τὰς κατὰ στοίχον πεφυτευμένας* [Lucret. v. 1373, *utque olearum caerulea distinguens inter plagas currere possit.* P.]. On the laws protecting the cultivation of the olive in Attica and providing for the preservation of the sacred olives (or *μορφαί*) and even of the hollow trunk of an olive tree, see the interesting speech of Lysias, Or. 7, *περὶ τοῦ σηκοῦ*, esp. § 2, *ἀπεγράφη τὸ μὲν πρῶτον ἐλαῖαν ἐκ τῆς γῆς ἀφανίζειν, καὶ πρὸς τοὺς ἐωνημένους τοὺς καρποὺς τῶν μοριῶν πυνθανόμενοι προσήσαν ... νυνὶ με σηκὸν φασιν ἀφανίζειν.* See also Dem. Or. 43 (Macart.) §§ 69—71.

16. *παιδάριον ἄστον.]* i. e. a little boy, who was free born. It was expected that Apollodorus would have mistaken the boy for a slave and either bound or beaten him, thereby rendering himself liable to an indictment for assault (*ὑβρις*).

Aeschines (Timarch. § 16)

ψαντες διὰ τὸ γείτονες εἶναι καὶ ὅμορον τὸ χωρίον  
ἐκέλευον τὴν ῥοδωνιὰν βλαστάνουσιν ἐκτίλλειν, ὧ, εἰ

quotes a 'law of Solon' *ἂν τις Ἀθηναίων ἐλεύθερον παῖδα ὑβρίσῃ, γραφέσθω ὁ κύριος τοῦ παιδὸς πρὸς τοὺς θεσμοθέτας... ἐνόχοι δὲ ἔστωσαν ταῖςδε ταῖς αἰτίαις καὶ οἱ εἰς τὰ οἰκετικὰ σώματα ἐξαμαρτάνοντες*, and similarly Dem. Meid. §§ 47—48. According to these two passages, it was permissible to institute a *γραφὴ ὑβρεως* even for outrage done to a slave, and though the text appears at first sight to imply that in such a case an indictment could not be brought, yet all that is necessarily meant is that if the lad maltreated were free born, the indictment (however unjustifiable in the present instance) would have been easier to bring forward than in the case of a slave. (Becker's *Charities* III. p. 31—32 = p. 367 of English Abridgment. Hermann, *Privatalt.* § 60).

*ἐκέλευον—ἐκτίλλειν.*] 'prompted him to pluck off the flowers of my rose-bed.' (*ἐκέλευον* 'put him up to...' 'persuaded him' cf. § 7.) [*ἐκτίλλειν* is perhaps 'to pick off the young shoots as they were growing.' P.]

The Rhetorician Hermogenes quotes the phrase *τὴν ῥοδωνιὰν ἐκτίλλειν* as an instance of *ἀφέλεια* (Spengel, *Rhetores Graeci* II. 363) and Harpocration has the following article, *ῥοδωνιά· Δημοσθένης ἐν τῷ περὶ τῶν Ἀρεθουσίῳ ἀνταπόδων. ῥοδωνιά· ἔστιν ἡ τῶν ῥόδων φυτεία ὥσπερ ἰωνιά ἡ τῶν ἰων, ὡς Ἐκαταῖος ἐν ἀπεριγγήσει δηλοῖ. Similarly Pollux I. 229 who gives *ἰωνιά* as the only parallel he can remember to the formation of the word *ῥοδωνιά* (cf. *rosaria*, *violaria*).*

To a modern reader, the mention of a rose-bed is immediately suggestive of a pleasure garden, but whether we look to the character of its owner who seems to have been a dry man of business and little more, or to the context with its fruit-trees, its vines and its olives, we are driven to the conclusion that his roses were mere articles of trade, grown to be sold in town for crowns and garlands. Just so, among the blessings of Peace, in the *Pax* of Aristophanes, 577, we find 'the violet-bed beside the well' mentioned in the very same breath as 'cakes and figs and myrtle-berries, sweet new wine and olive-trees.'

The Greek appreciation of the rose seems to have been mainly utilitarian. Thus it is under the head of *στεφανώματα* that Theophrastus dilates on the many beauties of the rose and on its numerous varieties (*πλήθει τε φύλλων καὶ ὀλιγότῃ καὶ τραχύτῃ καὶ λευκῇ καὶ χροῇ καὶ εὐσμῇ. Hist. Plant.* VII. 6). To the Greek, says Ruskin, 'a rose was good for scent, and a stream for sound and coolness; for the rest one was no more than leaves, the other no more than water' (*Modern Painters* III. 4. 13 § 13). It is indeed a noteworthy fact, attributable partly to the insignificance of the Attic flora, and still more to the defective development of Greek taste in this particular, that in what is known as the best period of Greek literature there is scarcely a single instance of a refined appreciation of the attractions of a flower-garden. One of the rare

καταλαβὼν αὐτὸν ἐγὼ δῆσαιμι ἢ πατάξαιμι ὡς δούλον  
 ὕντα, γραφήν με γράψαιντο ὕβρεως. ὡς δὲ τούτου 1252  
 διήμαρτον, καὶ γὰρ μάρτυρας μὲν ὦν ἔπασχον ἐποιούμην,  
 αὐτὸς δ' οὐδὲν ἐξημάρτανον εἰς αὐτοὺς, ἐνταῦθα ἤδη  
 17 μοι ἐπιβουλεύουσι τὴν μεγίστην ἐπιβουλήν' ἀνακεκρι-  
 μένου γὰρ ἤδη μου κατ' αὐτοῦ τὴν τῆς ψευδοκλητείας  
 γραφήν καὶ μέλλοντος εἰσιέναι εἰς τὸ δικαστήριον,  
 τηρήσας με ἀνιόντα ἐκ Πειραιῶς ὅφρ' ἐπεὶ τὰς λιθοτο-  
 μίας παῖει τε πύξ καὶ ἀρπάξει μέσον, κὰν ἑώθει με εἰς  
 τὰς λιθοτομίας, εἰ μὴ τινας προσιόντες, βοῶντός μου

<sup>2</sup> ἀρπάξει με (sic Σ) μέσον καὶ ὥθει Ζ. 'Malim ἑώθει' Bekker.  
 κῶν pro καὶ G. H. Schaefer.

exceptions is the mention of κή-  
 ρους εἰώδεις in Ar. Aves 1067.  
 The passage in Eur. El. 777  
 κυρεῖ δὲ κήποις ἐν καταρρύτοις  
 βεβῶν, ὁρέπων τερεῶντος μυρσίνης  
 κάρφ' ἡλόκου is hardly an ex-  
 ception, as the epithet 'well-  
 watered' is somewhat prosy, and  
 the context shews that the only  
 reason why Aegisthus is in his  
 garden is for the purely practi-  
 cal object of making himself a  
 myrtle-wreath for his sacrifice  
 to the mountain-nymphs. (Cf.  
 Becker's *Charicles* p. 203—4,  
 esp. i. p. 349 sqq. of the last  
 German ed. with the excellent  
 addenda of K. F. Hermann;  
 also the latter's *Privatalt.* § 15  
 note 20; St John's *Manners and  
 Customs of Ancient Greece*, i.  
 301—334, esp. p. 304, 305; Buch-  
 senschütz, *Besitz u. Erwerb* p.  
 72, and M. J. Schleiden, *die  
 Rose*.)

17. ἀνακεκριμένου.] passive  
 form in middle sense. (§ 14  
 ἀνακρινόμεν τὰς δίκας) 'when I  
 had brought to the preliminary  
 examination my indictment for  
 false citation, &c.'

τηρήσας — ἐβοήθησεν.] The  
 attack reminds us partly of

the murder mentioned by Ci-  
 cero, pro Cluentio § 37, in are-  
 narias quasdam extra portam  
*Esquilinam perductus occiditur.*

The quarries referred to in  
 the text were possibly near the  
 Museum hill where the Long  
 Walls leading to the Peiraeus  
 strike the wall enclosing Athens  
 itself, or still more probably  
 at a point immediately outside  
 the δῶρυ, south of the Peiraeic  
 gate of Athens. In the excel-  
 lent *Atlas von Athen* by Dr E.  
 Curtius, the third map indicates  
 'recent quarries' at this point,  
 just north of the ancient βέ-  
 παθρον.

κὰν ἑώθει.] The mss have  
 καὶ ὥθει 'struck me with his  
 fist and gripped me round the  
 waist and was pushing me in-  
 to the quarries, had not some  
 people, hearing my cries, come  
 up and rescued me.' This is  
 more graphic than the sense  
 given by Schaefer's emendation  
 κὰν ὥθει and may be compared  
 with the use of the indic. in  
 such passages as Horace Od.  
 ii. 17, 28, *me truncus illapsus  
 cerebro sustulerat nisi Faunus  
 ietum dextra levasset.*

ἀκούσαντες, παρεγένοντο καὶ ἐβοήθησαν. ἡμέραις δ' οὐ πολλαῖς ὕστερον εἰσελθὼν εἰς τὸ δικαστήριον πρὸς ἡμέραν διαμεμετρημένην, καὶ ἐξελέγξας αὐτὸν τὰ ψευδῆ κεκλητευκότα καὶ τὰ ἄλλα ὅσα εἴρηκα ἡδίκη-  
 18 κότα, εἶλον. καὶ ἐν τῇ τιμῇσει βουλομένων τῶν δικασ-  
 τῶν θανάτου τιμῆσαι αὐτῷ, ἐδεήθη· ἐγὼ τῶν δικασ-  
 τῶν μηδὲν δι' ἐμοῦ τοιούτον πράξαι, ἀλλὰ συγχω-  
 ρῶ. ἐδεήθη Bekker cum A<sup>3</sup>r. + μὲν Z cum BF et editione Aldina  
 (ἐδεήθημεν ΣΦ).

εἰσελθὼν...πρὸς ἡμέραν διαμε-  
 μετρημένην.] 'having entered  
 into court upon a day divided  
 out among several causes,' i.e.  
 the day on which I came into  
 court was allotted to several law-  
 suits, and the number of mo-  
 tions was so great that the time  
 at my disposal was therefore  
 very limited. Apollodorus wishes  
 to indicate the ease with which  
 after a necessarily short speech  
 he had got a conviction against  
 Arethusius. Cf. Aeschines, Fals.  
 Leg. § 126, ἐνδέχεται δὲ τὸ λοι-  
 πὸν μέρος τῆς ἡμέρας ταῦτα πράξαι  
 (i.e. βασανίσαι)· πρὸς ἔνδεκα γὰρ  
 ἀμφορέας ἐν διαμεμετρημένῃ τῇ  
 ἡμέρᾳ κρίνομαι. Dem. Fals. Leg.  
 § 120, ὅς γὰρ ἀγῶνας καινοῦς  
 ὥσπερ δράματα, καὶ τούτους ἀμαρ-  
 τήρους πρὸς διαμεμετρημένην τὴν  
 ἡμέραν αἰρεῖς διώκων, δῆλον ὅτι  
 πάνδεινος εἰ τις. Harpocr. s.v.  
 μέρος τι ὕδατος ἐστὶ πρὸς μεμε-  
 τρημένην ἡμέρας μέρος ῥέον δι-  
 μετρεῖτο δὲ τῷ Ποσειδεῶν...i.e.  
 the standard length of time  
 for calculating the measure-  
 ment of the *Clepsydra* was taken  
 from a day near the end of our  
 December. The length of the  
 twelfth part of the day would  
 vary with the time of the  
 year, and the running out of the  
 water would indicate the lapse  
 of a particular portion of the  
 whole day. Thus the water-

clock might indicate a time  
 equivalent to (say) the fourth  
 part of the shortest day (Dec. 21)  
 and this length of time might  
 be taken as a unit of the mea-  
 surement during the rest of  
 the year. (See Heslop's note  
 on Fals. Leg. l. c.)

τὰ ψευδῆ κεκλητευκότα.] Har-  
 pocr. ψευδοκλητεία ὄνομα δίκης  
 ἐστίν, ἣν εἰσάσιν ἐγγεγραμμένοι  
 ὀφείλουν τῷ δημοσίῳ, ἐπειδὴν αἰ-  
 τιῶνται τινὰς ψευδῶς κατασκευ-  
 ᾶσθαι κλητήρας καθ' ἐαυτῶν πρὸς  
 τὴν δίκην ἀφ' ἧς ὥφλον.

18. ἐν τῇ τιμῇσει.] In an ἀγών  
 τιμητός, the declaration of the  
 first verdict, that of condemna-  
 tion, was followed by the *τιμῆσις*  
 or fixing of the penalty, with the  
*ἀντίτιμῆσις*, in which latter the  
 defendant on his part submitted  
 to the court an alleviation of  
 the penalty claimed by the  
 plaintiff. (Plato Apol. p. 36 A.)

τιμῆσαι ..... ἐτιμῶντο.] The  
 active is used of the court, the  
 middle of the parties to the  
 suit (αὐτοὶ sc. the defendant  
 Arethusius and his friends).  
 Plato Apol. p. 38 A εἰ μὲν γὰρ  
 ἦν χρήματα, says Socrates, ἐτι-  
 μῶσά μιν ἀν' χρημάτων ὅσα ἐμελ-  
 λον ἐκτίσειν· νῦν δὲ οὐ γὰρ ἐστίν,  
 εἰ μὴ δρα δσον ἀν' ἐγὼ δυνάμην  
 ἐκτίσαι τοσούτου βούλεσθαι μοι τι-  
 μῆσαι (of the Jury).

δι' ἐμοῦ.] 'through my agency,'

ρῆσαι ὅσουπερ αὐτοὶ ἐτιμῶντο, ταλάντου, οὐχ ἵνα μὴ ἀποθάνῃ ὁ Ἀρεθούσιος (ἄξια γὰρ αὐτῷ θανάτου εἰργαστο εἰς ἐμέ), ἀλλ' ἵν' ἐγὼ Πασίωνος ὢν καὶ κατὰ ψήφισμα πολίτης μηδένα Ἀθηναίων ἀπεκτονῶς εἶην. ὡς δ' ἀληθῆ εἴρηκα πρὸς ὑμᾶς, τούτων ὑμῖν μάρτυρας πάντων παρέξομαι.

## ΜΑΡΤΥΡΕΣ.

- 19 Ἄ μὲν τοίνυν ἀδικούμενος, ὃ ἄνδρες δικασταί, ὑπ' αὐτῶν τὴν ἀπογραφὴν ἐποίησάμην δεδήλωκα ὑμῖν ὡς δ' ἔστιν Ἀρεθουσίου τὰνδράποδα ταῦτα καὶ ὄντα ἐν τῇ οὐσίᾳ τῇ ἐκείνου ἀπέγραψα ἐπιδείξω ὑμῖν. τὸν μὲν γὰρ Κέρδωνα ἐκ μικροῦ παιδαρίου ἐξεθρέψατο· καὶ ὡς ἦν Ἀρεθουσίου, τούτων ὑμῖν τοὺς εἰδότες μάρτυρας παρέξομαι.

'on a prosecution of mine.' Reiske conjectures δι' ἐμέ, 'on my account,' which would also make good sense, though disapproved by Dobree, who refers in support of δι' ἐμοῦ to Or. 51 § 17 ὡς περ... χάριν τιθημένων διὰ τῶν τοιούτων τοῖς ἀμελοῦσιν ὑμῶν, ἀλλ' οὐ διὰ τῶν βελτιόνων τοῖς ὑπηρετοῦσιν αὐτοῖς δεῖ χαρίζεσθαι προσήκον.

Πασίωνος ὢν.] i.e. the son of one who, originally a banker's slave, had received the citizenship by adoption. Neither the father nor the son was a citizen by birth, and it would have been peculiarly invidious had the latter compassed the death of one who was by birth a citizen of Athens.

§§ 19—21. Having now recounted some of the wrongs done me by Arethusius and his brother Nicostratus, I will call evidence in detail to prove that the two slaves entered by me in the specification do not belong to Nicostratus who is now attempting to

claim them, but are really part of the property of Arethusius and are thus liable to be confiscated to the state, as a partial payment of his debt to the treasury.

§ 19. At this point the speaker, after having shewn the reasons which justified him in regarding Arethusius as his enemy and exacting vengeance from him, reaches the real point at issue, viz. the proof that the slaves specified in the schedule belong to Arethusius, and not, as is alleged, to his brother Nicostratus.

τὸν μὲν γὰρ Κέρδωνα.] contrasted with τὸν δὲ Μάρην in § 20. Κέρδων is a slave-name expressive of knavish cunning (cf. ἡ κερδῶ 'the wily one,' i.e. 'the fox'). Digest. xxxviii. 1. 42 *Cerdonem servum meum manumitti volo* (quoted by Mayor on Juv. iv. 153 *tollat sua munerera Cerdō*).

ἐκ μικροῦ παιδαρίου.] Plat. Symp. 207 D ἐκ παιδαρίου, Or. 59 (Apoll. κατὰ Νεαίρας) § 18,



## ΜΑΡΤΥΡΕΣ.

20 Παρ' οἷς τοῖνυν εἰργάσατο πάποτε, ὡς τοὺς μι- 1253  
σθοὺς Ἀρεθοῦσιος ἐκομίζετο ὑπὲρ αὐτοῦ, καὶ δίκας  
ἐλάμβανε καὶ ἐδίδου, ὅποτε κακὸν τι ἐργάσαιτο, ὡς  
δεσπότης ὢν, τούτων ὑμῶν τοὺς εἰδότας μάρτυρας  
παρέξομαι.

## ΜΑΡΤΥΡΕΣ.

Τὸν δὲ Μάνην, δανείσας ἀργύριον Ἀρχεπόλιδι τῷ

ταύτας παιδίσκας ἐκ μικρῶν παι-  
δίων ἐκτήσατο, and similarly the  
far more frequent phrases ἐκ  
παιδός, ἐκ νέου, ἐκ μειρακίου.

20. παρ' οἷς τοῖνυν—δεσπότης  
ὢν] so. ὡς Ἀρεθοῦσιος ἐκομίζετο  
τοὺς μισθοὺς παρ' ἐκείνων παρ'  
οἷς εἰργάσατο πάποτε ὁ Κέρ-  
δων κ.τ.λ. 'I shall shew also  
that Arethusius got the wages  
on his account from all the  
persons with whom he ever  
worked; and that he used to  
receive compensation or to pay  
it when Cerdon did any mis-  
chief, as a master would be  
bound to do.' K.—[πώποτε, in  
the earlier Attic is never used  
without the negative, but often  
in Plato and Demosthenes. P.]

Slaves were sometimes let  
out by their owners either for  
work in the mines or for any  
kind of labour; or again (as  
here) to work as hired servants  
for wages (ἀποφορά) which went  
to their masters. Aeschin. Ti-  
march. § 97 οἰκέτας δημιουργοὺς  
τῆς σκυτατομικῆς τέχνης ἐντὶ ἡ  
δέκα δ' ἕκαστος τούτῳ δ' ὀβο-  
λοῦς ἀποφορὰν ἔφερε τῆς ἡμέρας.  
Isaens Or. 8 (Ciron) § 35 ἀνδρά-  
ποδα μισθοφοροῦντα (Hermann,  
Privatalt. § 50, note 18).

δίκας ἐλάμβανε.] A slave was  
incapacitated from conducting  
a law-suit either on his own  
account or on behalf of another.

Plato Gorg. 488 B, ἀνδραπόδου,  
ὅστις ἀδικούμενος καὶ προηλακι-  
ζόμενος μὴ οἷός τ' ἐστὶν αὐτὸς  
αὐτῷ βοηθεῖν μὴδ' ἄλλω οὐδ' ἄν  
κῆδηται. Or. 37 (Pant.) § 51  
εἶδει...λαχόντα ἐκείνῳ (sc. τῷ δο-  
λῳ) τὴν δίκην τὸν κύριον διώκειν  
ἐμέ. (Hermann, Privatalt. §  
59, 1.)

δίκας...ἐδίδου, ὅποτε κακὸν τι  
ἐργάσαιτο.] The law by which  
the master had to make good  
any damage done by his slave  
is quoted as a law of Solon by  
Lysias, Or. 10 (Theomnest. A) §  
19, οὐκ ἔστι καὶ δούλης τὴν βλάβην  
ὀφείλειν.—The clause containing  
ἐργάσαιτο refers of course to  
δίκας ἐδίδου alone; otherwise we  
should have had some such  
phrase as ὅποτε κακὸν τι πάθος  
ἢ ἐργάσαιτο.

τὸν δὲ Μάνην.] governed by  
ἐναντιόημα but placed early  
for emphatic contrast with τὸν  
μὲν Κέρδωνα in § 19. It may  
almost be regarded as an accu-  
sative absolute.

Μάνης was one of the common-  
est slave-names. Theophrastus  
in his will, which is preserved  
by Diogenes Laertius, v. 55,  
mentions among his slaves Cal-  
lias and Manes, and the latter  
name occurs in Ar. Ran. 965,  
Lys. 908, 1218, and Pax 1146,  
while in the Aves, 523, it is  
used in the plural as a synonym

Πειραιεῖ, ἐπειδὴ οὐχ οἷός τ' ἦν αὐτῷ ἀποδοῦναι ὁ Ἀρχέπολις οὔτε τὸν τόκον οὔτε τὸ ἀρχαῖον ἅπαν, ἐναπετίμησεν αὐτῷ<sup>h</sup>. καὶ ὅτι ἀληθὴ λέγω, τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

# ΜΑΡΤΥΡΕΣ.

- 21 Ἐτι τοίνυν καὶ ἐκ τῶνδε γνώσεσθε, ὧ ἄνδρες δικασταί, ὅτι εἰσὶν Ἀρεθουσίου οἱ ἄνθρωποι· ὅποτε γὰρ οἱ ἄνθρωποι οὗτοι ἢ ὁπώραν πρίαυντο ἢ θέρος μισθοῦντο ἐκθερίσαι ἢ ἄλλο τι τῶν περὶ γεωργίαν ἔργων ἀναιροῦντο, Ἀρεθούσιος ἦν ὁ ὠνούμενος καὶ μισθοῦ-

<sup>h</sup> οὔτε τὸ ἀρχαῖον, ἅπαν ἐναπετίμησεν αὐτῷ Z et Dind. (Oxon. 1846).

for 'slaves' ὅν δ' ἀνδράποδ' ἡλιθίους Manes. See further on Or. 45 § 86.

ἐναπετίμησεν.] Archepolis handed over Manes to Arethusius as an equivalent for part of the debt due to the latter. The nominative to this verb is not Arethusius, the subject of the participle δανείσας, but Archepolis, the subject of the subordinate clause ἐπειδὴ οὐχ οἷός τ' ἦν. It will further be noticed that, while the verb ἀποτιμᾶω is generally used in the active of *borrowing* and in the middle of *lending* money on security, the compound ἐναποτιμᾶω is in the present passage applied to the debtor's transference of a part of his property on valuation in lieu of direct payment of his debt. The same compound occurs in the passive form in Dio Cassius xii. 87 τὰ ἐνέχυρα πρὸς τὴν δξίαν ἐναποτιμηθῆναι ἐκέλευσε (i. e. Caesar ordained that the securities on which money had been borrowed should be valued and transferred to the creditors in place of a money payment).

Reiske, G. H. Schaefer and the Zurich editors (as well as Dindorf in his *Oxford* edition of 1846) place a comma after τὸ ἀρχαῖον, and thus construe ἅπαν with ἐναπετίμησεν αὐτῷ, 'handed him over in full payment,' 'paid off the whole sum in the person of Manes.'

21. ὁπώραν πρίαυντο κ.τ.λ.] de cor. § 51 τοὺς θεριστὰς ἢ τοὺς ἄλλο τι μισθοῦ πράττοντας and ib. § 262 σῦκα καὶ βότρυς καὶ ἑλδας συλλέγων ὥσπερ ὁπωρώνης ἐκ τῶν ἀλλοτριῶν χωρίων. 'Whenever they bought up the produce of an orchard or hired themselves out to reap a harvest, it was Arethusius who made the bargain on their behalf for the purchase or for the wages respectively.' μισθοῦμενος refers back to θέρος μισθοῦντο ἐκθερίσαι, just as ὠνούμενος corresponds to πρίαυντο. The latter verb having no present participle of its own, ὠνούμενος commonly takes its place and is so used in the present passage. Cf. note on § 10, where πρίασθαι is followed by ὠνεῖσθαι.

μενος ὑπὲρ αὐτῶν. ὡς δ' ἀληθῆ λέγω, καὶ τούτων ὑμῖν  
τοὺς μάρτυρας παρέξομαι.

### ΜΑΡΤΥΡΕΣ.

- 22 "Ὅσας μὲν τοίνυν μαρτυρίας παρασχέσθαι εἶχον  
ὑμῖν, ὡς ἔστιν Ἀρεθουσίου τὰνδράποδα, δεδήλωκα ὑμῖν.  
βούλομαι δὲ καὶ περὶ τῆς προκλήσεως εἰπεῖν, ἣν οὗτοι  
με προὔκαλίσαντο καὶ ἐγὼ τούτους. οὗτοι μὲν γάρ με  
προὔκαλίσαντο, ὅτε ἡ πρώτη ἀνάκρισις ἦν, φάσκον-  
τες ἔτοιμοι εἶναι παραδιδόναι ἐμοὶ αὐτῷ τὰνδράποδα  
βασανίσαι, βουλόμενοι μαρτυρίαν τινὰ αὐτοῖς ταύτην

§§ 22—25. *I now propose to deal with the Challenge which my opponents proposed to me, and also with that which I myself proposed to them.*

*At the preliminary hearing of my case against Arethusius, they put in a Challenge, and offered therein to deliver up the slaves, to be tortured by myself, their object being to claim the Challenge as a piece of evidence in their own favour in the event of my refusing to accept it.*

*I replied to the Challenge by stating in the presence of witnesses, that since this was not a private but a public cause and since the slaves, as I contended, were the property of the state, it was not for myself to torture them, as I was only a private person; on the contrary, it was a question for the board of police or for certain persons chosen by the Council of the state. On these conditions I was willing to accept their Challenge, and I challenged them to accept my own proposal. They declined my offer.*

22. *προκλήσεως.*] On the subject of Challenges, see Or. 45 § 15.

ἦν... με προὔκαλίσαντο.] For the double acc. cf. Or. 56 § 17 προκαλίσθαι τινα πρόκλησιν.

ἡ πρώτη ἀνάκρισις.] 'the first preliminary investigation,' see note on ἀνακρινόμεν § 14 *supra*.

παραδιδόναι... τὰνδράποδα βασανίσαι.] The principle of extracting evidence by the torture of slaves, was one of the weakest points in the judicial system of Athens (some interesting criticisms on it may be found in Forsyth's *Hortensius* p. 40, and in Mahaffy's *Social Life in Greece* p. 226—8).—ἐμοὶ αὐτῷ is emphatic, just as, six lines further, εἰ ἐμοὶ ἐξεδίδοναι contrasted with δημοσίᾳ. The speaker holds that the slaves belong to the state and should have been handed over to the public official and not to a private individual like himself.

ταύτην.] Not the evidence given by the slaves, but the mere offer to allow them to be tortured, 'wishing this (offer) to be a kind of evidence on their own side.' ταύτην is attracted into the same gender as μαρτυρίαν; τοῦτο would have made the same sense, but would have been less idiomatic.

- 23 γενέσθαι. ἐγὼ δ' ἀπεκρινάμην αὐτοῖς ἐναντίον μαρ-  
τύρων ὅτι ἔτοιμός εἰμι ἵνα εἰς τὴν βουλὴν μετ' αὐτῶν  
καὶ παραλαμβάνειν μετ' ἐκείνης ἢ μετὰ τῶν ἑνδεκα, 1254.  
λέγων ὅτι, εἰ μὲν ἰδίαν δίκην ἐδικαζόμεν αὐτοῖς, εἰ  
ἐμοὶ ἐξεδίδουσιν, παρελάμβανον ἂν, νῦν δὲ τῆς πόλεως  
εἵη τὰνδράποδα καὶ ἡ ἀπογραφὴ· δεῖν οὖν δημοσίᾳ  
24 βασανίζεσθαι. ἡγοῦμην γὰρ οὐ προσήκειν ἐμοὶ ἰδιώτῃ  
ὄντι τοὺς δημοσίους βασανίζειν οὔτε γὰρ τῆς βασάνου  
κύριος ἐγγυρόμην οὔτε καλῶς ἔχειν τὰ λεγόμενα ὑπὸ  
τῶν ἀνθρώπων ἐμὲ κρίνειν<sup>1</sup>. ἡγοῦμην τε· δεῖν τὴν  
ἀρχὴν ἢ τοὺς ἡρημένους ὑπὸ τῆς βουλῆς γράφεσθαι,  
καὶ κατασημνημένους τὰς βασάνους, ὅ τι εἴποιεν<sup>2</sup>

<sup>1</sup> κρίνειν Z.

<sup>2</sup> εἴποιεν Z cum BF, εἴποιεν Ar. εἶπεν Σ.

23. *ei... ei.*] Two or even three protases, not co-ordinate, may belong to one apodosis, e. g. Plat. Men. 74 B, *ei tis se ἀνέροιτο τοῦτο, τί ἐστι σχῆμα; ei αὐτῷ εἶπες ὅτι στρογγυλότης, ei σοι εἶπεν ἄπερ ἐγὼ, εἶπες δὴ-που ἂν ὅτι σχῆμά τι* (Goodwin, *Moods and Tenses* § 55. 1).

The reiteration of *ei* in the present passage has been considered open to objection; it occurs however in Or. 54 § 15, in an undoubtedly genuine speech of Demosthenes (A. Schaefer, *Dem. u. s. Zeit* III. 2. 188 and Lortzing, *Apoll.* 38).

*δημοσίᾳ βασανίζεσθαι.*] 'to be questioned publicly,' i. e. 'to be tortured by a state-officer.'

24. *ὅτε τῆς βασάνου κύριος ἐγγυρόμην.*] i. e. I did not acquire control of the 'question,'—authority over the examination.

*ὅτε καλῶς ἔχειν*] sc. *ἡγοῦμην*, 'it was unsuitable, I thought, for myself to decide as to the answers of the slaves.'

*τὴν ἀρχὴν*] sc. *τοὺς ἑνδεκα*, as appears by comparing § 23, *μετὰ*

(*τῆς βουλῆς*) ἢ μετὰ τῶν ἑνδεκα. Reiske wrongly renders: '*illum Archontem ad cuius tribunal haec causa pertineret, aut delectos a senatu.*' Frequently it is the context alone that decides whether ἡ ἀρχὴ or even οἱ ἀρχοντες refers to the Archons or to some other public functionaries. Thus in Or. 22 (Androt.) § 26 *τοῖς ἀρχουσιν ἐφύγου* refers to the Eleven, and in Lysias, Or. κατὰ τῶν σιτοπώλων §§ 5—10, οἱ ἀρχοντες is several times used of the five *σιτοφύλακες* in the Peiraeus. On *τὴν ἀρχὴν* for 'the authorities,' abstract for concrete, see note on Or. 45 § 58.

*γράφεσθαι.*] 'to have the answers written down,' or 'to take down the answers.' Plato Theaet. 143 A, *ἐγραψάμην ὑπομνήματα* 'I wrote me down some memoranda.' This sense of the middle must not be confounded with the technical meaning 'to indict.'

*κατασημνημένους.*] 'having sealed up the testimony extorted.' The documents were

οἱ ἄνθρωποι, παρέχειν εἰς τὸ δικαστήριον, ἵν' ἀκούσαντες ἐκ τούτων ἐψηφίσασθε ὅποιόν τι ὑμῖν ἐδόκει.  
 25 ἰδίᾳ μὲν γὰρ βασανιζομένων τῶν ἀνθρώπων ὑπ' ἐμοῦ ἀντελέγετ' ἂν ἅπαντα ὑπὸ τούτων, εἰ δὲ δημοσίᾳ, ἡμεῖς μὲν ἂν ἐσιωπῶμεν, οἱ δ' ἄρχοντες ἢ οἱ ἡρημένοι ὑπὸ τῆς βουλῆς ἐβασάνιζον ἂν μέχρι οὐ αὐτοῖς ἐδόκει. ταῦτα δ' ἐμοῦ ἐθέλοντος οὐκ ἂν ἔφασαν τῇ ἀρχῇ παραδοῦναι, οὐδ' εἰς τὴν βουλήν ἤθελον ἀκολουθεῖν. ὥς οὖν ἀληθῆ λέγω, κάλει μοι τοὺς τούτων μάρτυρας.

## ΜΑΡΤΥΡΕΣ.

26 Κατὰ πολλὰ μὲν οὖν ἔμουγε δοκοῦσιν εἶναι ἀναί-

put into an *ἐχίνος* or 'casket,' which was sealed up and afterwards produced in court and there opened. Or. 54 § 17 σημειοῦνται τοὺς ἐχίνους.

βασάνους, as is proved by the subsequent clause, 'whatever the slaves said,' is here used, not of the torture itself, but of the extorted evidence. Harpocr. βάσανος: 'Ἀντιφών' λῆθος οὕτω καλεῖται, ἣ τὸ χρυσίον παρατριβόμενον δοκιμάζεται. 'Περειδης δ' ἐν τῷ κατ' Ἀντίου τὰ ἐν τοῖς βασάνοις εἰρημένα ὑπὸ τῶν βασανιζομένων καὶ ἀναγραφέντα βασάνους ὠνόμασε. (Anaximenes) rhet. xvi. 1, βασάνος ἐστὶ μὲν ὁμολογία παρὰ συνειδότος, ἀκωτος δέ.

παρέχειν κ.τ.λ.] 'to produce in court' the evidence obtained by torture. The torture itself, it appears, did not take place in court (see note on Or. 45 § 16).

ἴα—ἐψηφίσασθε.] For ἴα 'in which case,' cf. Or. 36 § 47. ἐκ τούτων should be taken with ἐψηφίσασθε and not with ἀκούσαντες, cf. Or. 45 § 2 ἐξ ὧν (ἀκούσαντες)...γνώσεσθε.

25. ἰδίᾳ βασανιζομένων τῶν ἀνθρώπων] equivalent to εἰ ἰδίᾳ ἐβασάνιζοντο. Hence in the corresponding clause, instead of δημοσίᾳ δέ, which would have been equally good Greek, we have εἰ δὲ δημοσίᾳ sc. ἐβασάνιζοντο (Goodwin, *Moods and Tenses* § 109. 6).

[The drift of the argument is: 'I objected to a private examination, because my opponents would have said that my report of their statements was untrue; whereas if the examination were public, the responsibility would have rested wholly on the authorities.' P.]

οἱ ἄρχοντες.] 'The Eleven.' See note on τὴν ἀρχὴν in § 24.

§§ 26—29. *My opponents are really claiming what is public property, that is, your own property, men of the jury, and I shall prove this by your own laws. When the jury were proposing to condemn Areteusius to death, my opponents proposed a pecuniary penalty and promised jointly to pay it. So far*

σχυντοι ἀμφισβητοῦντες τῶν ὑμετέρων, οὐχ ἥκιστα δὲ ὑμῖν αὐτοὺς ἐπιδείξω ἐκ τῶν νόμων τῶν ὑμετέρων. οὗτοι γὰρ, ὅτε οἱ δικάσται ἐβούλonto θανάτου τιμῆσαι τῷ Ἀρεθουσίῳ, ἐδέοντο τῶν δικαστῶν χρημάτων τιμῆσαι καὶ ἐμοῦ συγχωρῆσαι, καὶ ὁμολόγησαν αὐτοὶ 27 συνεκτίσειν. τοσούτου δὴ δέουσιν ἐκτίνειν καθ' ἡ ἡγγυήσαντο ὥστε καὶ τῶν ὑμετέρων ἀμφισβητοῦσιν. καίτοι οἱ γε νόμοι κελεύουσι τὴν οὐσίαν εἶναι δημο- 1255 σίαν, ὃς ἂν ἐγγυησάμενός τι τῶν τῆς πόλεως μὴ ἀποδιδῶ τὴν ἐγγύην ὥστε καὶ εἰ τούτων ἦν τὰνδράποδα, προσῆκεν αὐτὰ δημόσια εἶναι, εἴπερ τι τῶν νόμων

28 ὀφελος. καὶ πρὶν μὲν ὀφείλειν τῷ δημοσίῳ ὁ Ἀρεθούσιος ὁμολογεῖτο τῶν ἀδελφῶν εὐπορώτατος εἶναι· ἐπειδὴ δ' οἱ νόμοι κελεύουσι τὰ κείνου ὑμέτερα εἶναι, τῆνικαῦτα πένης ὧν φαίνεται ὁ Ἀρεθούσιος, καὶ τῶν μὲν ἢ μήτηρ ἀμφισβητεῖ, τῶν δ' οἱ ἀδελφοί. χρῆν δ' αὐτοὺς, εἴπερ ἐβούλonto δικαίως προσφέρεισθαι πρὸς

from fulfilling their guarantee, they are actually claiming your own property; and the laws declare that the property of persons who guarantee the payment of a sum to the state and fail to do so shall be confiscated; so that even on this ground alone, the laws would require the slaves in question to be state property.

As soon as Arethusius becomes indebted to the treasury, instead of being, as was admitted in former days, the wealthiest of the brothers, he is now made out to be ever so poor, and part of his property is claimed by his mother, part by his brothers, as in the present instance by Nicos-tratus.

I must ask you in conclusion to consider that there will never be any lack of claimants to contest your property, and to defraud the state of her dues, by

making pitiful appeals to your compassion. If you disregard all such pleas in the present case, you will do wisely in finding a verdict against Nicos-tratus.

26. τιμῆσαι.] See *supra* § 18.—ἐμοῦ συγχωρῆσαι so. ἐδέοντο, implored me to acquiesce in my opponents having a pecuniary penalty imposed on them.—ὁμολόγησαν αὐτοὶ συνεκτίσειν, 'they agreed that they would be jointly responsible for the payment.' Kennedy.

27. τῶν ὑμετέρων.] The slaves claimed by the state, for non-payment of the fine due from Arethusius, are here dexterously represented as the property of the jury.

28. πένης ὧν φαίνεται.] 'is made out to be a poor man.'

προσφέρεισθαι.] 'to behave,' Or. 40 § 40.

ύμᾱς, ἀποδείξαντας ἅπασαν τὴν οὐσίαν τὴν ἐκείνου,  
 29 τὰ τούτων αὐτῶν εἴ τις ἀπέγραφεν, ἀμφισβητεῖν. ἐὰν  
 οὖν ἐνθυμηθῇτε ὅτι οὐδέποτε ἔσται ἀπορία τῶν ἀμ-  
 φισβητησόντων ὑμῖν περὶ τῶν ὑμετέρων,—ἡ γὰρ  
 ὀρφανοὺς ἢ ἐπικλήρους κατασκευάσαντες ἀξιώσουσιν  
 ἐλεεῖσθαι ὑφ' ὑμῶν, ἡ γῆρας καὶ ἀπορίας καὶ τροφᾶς  
 μητρὶ λέγοντες, καὶ ὀδυρόμενοι δι' ὧν μάλιστ' ἐλ-  
 πίζουσιν ἐξαπατήσῃν ὑμᾱς, πειράσσονται ἀποστερηθῆσαι  
 τὴν πόλιν τοῦ ὀφλήματος. ἐὰν οὖν ταῦτα παριδόντες  
 πάντα καταψηφίσῃσθε, ὀρθῶς βουλευέσεσθε.

ἀποδείξαντας.] 'having dis-  
 closed' (delivered a formal spe-  
 cification of) 'the estate of Are-  
 thusius.'—τούτων αὐτῶν i. e.  
 Nicostratus and Deinon.

29. ἐὰν οὖν—ἐὰν οὖν ταῦτα.]  
 The sentence is suspended by a  
 parenthesis of several lines  
 from ἡ γὰρ ὀρφανοὺς to ὀφλή-  
 ματος, and it is then resumed  
 by the repetition of ἐὰν οὖν.

ὀρφανοὺς ἢ ἐπικλήρους.] 'or-  
 phan-son or heiresses,' meaning  
 by the latter 'orphan-daughters'  
 'portionable-sisters'; an 'heir-  
 ess' under the Athenian law  
 was by no means necessarily in  
 good circumstances. (See note  
 on Or. 45 § 75.)

ἀπορίας.] 'embarrassments,'  
 'distresses.' For this plural

which is not uncommon in Dem.  
 cf. Fals. Leg. § 146, εὐπορίας  
 κτήματα πλοῦτον ἀντὶ τῶν ἐσχά-  
 των ἀπορίων.—τροφᾶς μητρὶ 'a  
 mother's maintenance.'

ὀδυρόμενοι κ.τ.λ.] 'Appeals  
 ad misericordiam formed the  
 staple conclusion of every  
 speech, and it was not held  
 undignified for the greatest aris-  
 tocrats, or grotesque for the  
 most notorious scamps, to burst  
 out crying in court, and to  
 bring up their children to excite  
 the compassion of the jury by  
 their tears.' Mahaffy, *Social  
 life in Greece* p. 369. Cf. Or.  
 45 § 88 and Or. 54 § 38.

καταψηφίσῃσθε.] sc. Νικο-  
 στράτου.

LIV.

ΚΑΤΑ ΚΟΝΩΝΟΣ ΑΙΚΙΑΣ.

ΤΠΟΘΕΣΙΣ.

Ἄριστων Ἀθηναῖος δικάζεται Κόνωνι αἰκίας, λέγων ὑπ' αὐτοῦ καὶ τοῦ παιδὸς αὐτοῦ τετυπῆσθαι, καὶ μάρτυρας τούτου παρεχόμενος. ὁ δὲ Κόνων ἀρνείται τὸ πρῶγμα καὶ μάρτυρας ἀντιπαρέχεται, οὓς ὁ Δημοσθένης οὐ φησι πιστοὺς· βεβιωκέναι γὰρ φαύλως 1256 καὶ εὐχερῶς ἔχειν πρὸς τὸ ψεύδεσθαι.

I Ὑβρισθεὶς, ὦ ἄνδρες δικασταί, καὶ παθὼν ὑπὸ

*Argument 1. 2. τετυπῆσθαι.* In Classical Greek, we should have had the phrase *πληγὰς ἐληφέναι*. The tenses from \**τυπτέω*, with the exception of the future *τυπτήσω* (used in Attic Prose and Comedy), are characteristic of late Greek. Thus, in the first *Argument* to the *Midias*, we have *τετύπηκεν* and *τετυπτημένος*, and in Lucian (*Demonax* § 16) we read: *ἐπεὶ δέ τις ἀθλητὴς...ἐπάταξεν αὐτὸν εἰς τὴν κεφαλὴν λίθω καὶ αἷμα ἔρρηξεν, οἱ μὲν παρόντες ἠγανάκτουν ὡς αὐτὸς ἕκαστος τετυπτημένος*, where *ἐπάταξεν* is correctly used (as in Classical Greek Prose) instead of the aorist active of *τύπτω*, while *τετυπτημένος* is only a late form, for which writers of the best age would have written either *πεπληγμένος* or *πληγὴν ἐληφώς*.

The *κατὰ Κόνωνος* affords an instructive study on this point

of Greek usage, as will further appear in *Excursus* (A) at the end of the speech.

6. *εὐχερῶς ἔχειν κ.τ.λ.* [‘make no difficulty about lying.’ Or. 21 (Meid.) § 108, *τὸν μαρτὸν καὶ λίαν εὐχερῆ, τὸν κοινοτὸν Εὐκτῆμονα*. So *ῥαδίως ὁμνῶναι infra* § 89. P.]

§§ 1, 2. *I was grossly assaulted by the defendant Conon, and, for a very long time indeed, my life was despaired of. When I was restored to health and strength, instead of going beyond my years by bringing against him a public indictment for brutal outrage, I followed the advice of my friends and took the easier course of instituting a private suit for a common assault. I ask for your indulgent hearing, while I briefly relate to you my wrongs, and I trust that, if I prove my case, you will help me to my rights.*

1. *ὑβρισθεὶς—ταυτηνί.* The



Κόνωνος τουτουὶ τοιαῦτα ὥστε πολλὸν χρόνον πάνυ μήτε τοὺς οἰκείους μήτε τῶν ἱατρῶν μηδένα προσδοκᾶν περιφεύεσθαι με, ὑγιάνας καὶ σωθεὶς ἀπροσδοκῆτως ἔλαχον αὐτῷ τὴν δίκην τῆς αἰκίας ταυτηνί. πάντων δὲ τῶν φίλων καὶ τῶν οἰκείων, οἷς συνεβουλευόμην, ἔνοχον μὲν φασκόντων αὐτὸν ἐκ τῶν πεπραγμένων εἶναι καὶ τῇ τῶν λωποδυτῶν ἀπαγωγῇ καὶ ταῖς τῆς

opening sentence is best rendered by treating ὑβρισθεὶς and παθὼν as principal verbs, and beginning a fresh sentence with the word ὑγιάνας, e.g. 'I was the victim of wanton outrage, and I suffered such maltreatment at the hands of Conon the defendant, that, for a very long time indeed, neither my friends nor any of my medical attendants expected my recovery. Contrary to expectation, I was restored to health and strength; and I thereupon brought against him the present action for the assault in question.'

This exordium is quoted by the rhetorician Hermogenes as an example of perspicuity and directness of expression. (καθαρότης. Spengel, *Rhetores Graeci* II. 276.) Here, as in Or. 45, the keynote of the whole speech is struck by the opening word, ὑβρισθεὶς.

πολλὸν χρόνον πάνυ.] For this position of πάνυ, separated from πολλόν, the word which it obviously qualifies, cf. Plato, *Hipp. Maj.* 282 π ἐν ὀλίγῳ χρόνῳ πάνυ and (Dem.) *Prooem.* 18 βραχύ τι μοι πεισθῆτε πάνυ.

ἔλαχον...δίκην.] lit. 'obtained his suit by lot,' 'had it allotted to him,' i.e. 'obtained leave (from the Archon) to bring this action.' Where several lawsuits were instituted at

the same time, the Archon decided by lot the order in which they were to be heard (κληροῦν τὰς δίκας); hence the applicant for leave to bring an action is commonly said λαγχαίνειν δίκην.

τῆς αἰκίας.] 'the assault in question.' Ariston, as he further explains in the next sentence, is bringing against Conon a private suit for assault (αἰκίας δίκη), instead of a public indictment for wanton outrage (ὑβρεως γραφή). The penalty in the former was light, namely, a pecuniary fine paid to the plaintiff; in the latter, it was either a fine paid to the state, or, in extreme cases, death. The former implied that the complainant had been simply assaulted and struck, the latter that he had been subjected to malicious and brutal indignities.

αἰκία διαφέρει ὑβρεως, ὅτι αἰκία μὲν ἡ διὰ πληγῶν, ὑβρις δὲ καὶ ἀνευ πληγῶν μετὰ προσηλακισμοῦ καὶ ἐπιβουλῆς· διὸ καὶ εὐθύναι ἐλάττωτες τῆς αἰκίας (*Lexica Segueriana* p. 355).

συνεβουλευόμην...συμβουλευόντων.] 'consulted'... 'counselled.' The active and middle senses of this verb are also found side by side in Xen. *An.* II. 1. 17, ξυμβουλευομένοις ξυμβούλευσε τάδε.

τῇ τῶν λωποδυτῶν ἀπαγωγῇ.]

ὑβρεως γραφαῖς, συμβουλευόντων δέ μοι καὶ παραι-  
νούντων μὴ μείζω πράγματα ἢ δυνήσομαι φέρειν  
ἐπάγεσθαι, μηδ' ὑπὲρ τὴν ἡλικίαν ὧν ἐπεπόνθειν ἐγ-  
καλοῦντα φαίνεσθαι, οὕτως ἐποίησα καὶ δι' ἐκείνους  
ἰδίαν ἐλαχον δίκην, ἥδιστ' ἂν, ὧ ἄνδρες Ἀθηναῖοι,

'the summary process directed against footpads,' i.e. 'summary arrest and imprisonment for highway robbery.' The plaintiff's friends meant that Conon might have been captured *flagrante delicto*, and carried off to prison as a *λωποδύτης* (lit. 'a clothes-stealer'). According to the plaintiff's subsequent statement, this would be actually true, as Conon and his friends had stripped him of his cloak and carried it off (§ 8 ἐξέδυσαν, and § 10 ἀπεκομίσθην γυμνός, οἱ δὲ ψέχοντο θοιμάτιον λαβόντες μου). Cf. Isocr. *de perm.* § 90, τοῦτον ἀπαγαγὼν ἀνδραποδίστην καὶ κλέπτην καὶ λωποδύτην, Dem. Or. 22 § 26, Aeschin. *Timarch.* § 91 and Lysias Or. 10 § 10.

ὑβρεως γραφαῖς.] here contrasted with αἰκίας δίκη.—Harpoer. γραφή' δημοσίου τινος ἐγκλήματος βρομα. δίκη' ἰδίως λέγεται ἐπὶ ἰδιωτικῶν ἐγκλημάτων, ὡς σαφὲς ποιεῖ Δημοσθένης ἐν τῷ κατὰ Κόνωνος.

[The plural γραφαί shows that more than one public indictment could have been framed. See also Or. 21 (Meid.) § 28, καὶ δίκας ἰδίας διδώσιν ὁ νόμος μοι καὶ γραφὴν ὑβρεως. P.]

ἐπάγεσθαι.] 'to take upon my shoulders a greater burden than I should be able to bear.'—πράγματα, in taking legal action. P.]

ὑπὲρ τὴν ἡλικίαν—φαίνεσθαι.]

'to incur the imputation of going beyond my years in undertaking to prosecute for the maltreatment I had received.' The task of instituting and carrying to its issue a γραφή ὑβρεως would be more laborious and would require greater skill and experience than was involved in a δίκη αἰκίας. A young man like Ariston would find himself in an awkward and invidious position, as prosecutor in so ambitious a case as a γραφή ὑβρεως, not to mention his being unequally matched against an unscrupulous opponent who was older than himself and had numerous connexions to support him. He would also be deterred (though he does not here confess it) by the rule requiring the prosecutor to pay a fine of a thousand drachmae in the event of his not obtaining at least one-fifth part of the votes.

The construction is, ἐγκαλοῦντα τούτων ἃ ἐπεπόνθειν.

[ὑπὲρ τὴν ἡλικίαν may mean, 'beyond the resentment suited to my years,' implying that a young man ought to put up with a little affront, and not make a serious matter of it. P.]

ἰδίαν.] ἀπὲρ τοῦ ἰδιωτικῆν Δημοσθένης ἐν τῷ κατὰ Κόνωνος. ἐλέγετο δὲ τὸ ἰδίον καὶ ἰδιωτικὸν ὡς ὁ αὐτὸς ῥήτωρ ἐν τῷ κατὰ Ζηρόθεμιν (§ 82 πρᾶγμα ἰδίον). Harpocration.

[ἥδιστ' ἂν κρίνας, for καίτοι ἥδιστ' ἂν ἔκρινε, well illustrates

2 θανάτου κρίνας τουτονί. καὶ τούτου συγγνώμην ἔχετε, εὖ οἶδ' ὅτι, πάντες, ἐπειδὰν ἂ πέπονθ' ἀκούσητε· δεινῆς γὰρ οὔσης τῆς τότε συμβάσεως ὕβρεως οὐκ ἐλάττων ἢ μετὰ ταῦτ' ἀσέλγεία ἐστὶ τουτονί. ἀξιώ δὴ 1257 καὶ δέομαι πάντων ὁμοίως ὑμῶν πρῶτον μὲν εὐνοϊκῶς ἀκούσαί μου περὶ ὧν πέπονθα λέγοντος, εἴτ', ἐὰν ἡδικῆσθαι καὶ παρανενομήσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια. ἐξ ἀρχῆς δ' ὥς ἕκαστα πέπρακται, διηγῆσομαι πρὸς ὑμᾶς, ὡς ἂν οἴός τε ὦ διὰ βραχυτάτων.

3 Ἐξήλθομεν, ἔτος τουτὶ τρίτον, εἰς Πάνακτον φρου-

the fondness of the Greeks for participial construction. The sense is, 'though I would most gladly have brought him to trial on the capital charge.' P.]

θανάτου.] The penalty of death was inflicted in cases of λωποδυτῶν ἀπαγωγή, and even in special cases of ὕβρεως γραφῆ. For the former, cf. Xen. Mem. i. 2. 62, ἐὰν τις φανερὸς γένηται λωποδυτῶν ἢ βαλαντιστομῶν ἢ τοιχωρυχῶν, τούτοις θάνατός ἐστιν ἡ ζημία, and for the latter, Lysias, fragm. 44, καίτοι τις οὐκ οἶδεν ὑμῶν οὐδὲ τὴν μὲν αἰκίαν χρημάτων ἐστὶ μόνον τιμῆσαι, τοὺς δὲ ὑβρίζειν δόξαντας ἔξεστιν ὑμῖν θανάτῳ ζημιῶν.

2. δεινῆς—τουτονί.] 'The original outrage, atrocious as it was, does not surpass the subsequent brutality of the defendant.' See § 26. The first clause may perhaps be taken as a genitive absolute.

παρανενομήσθαι.] The passive is formed just as if the verb were directly transitive in the active, i.e. as if the active construction were παρανομεῖν τινα, and not εἰς τινα. So also the active παραινέω εἰς τινα has παραινέσθαι for its correspond-

ing passive. (See below § 4 init. and § 5 fin.)

βοηθῆσαί μοι τὰ δίκαια.] 'assist me to my rights.' For the phrase and the context, cf. Or. 27 § 3 δέομαι ὑμῶν. μετ' εὐνοίας τ' ἐμοῦ ἀκούσαι κὰν ἡδικῆσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια, ποιήσομαι δ' ὡς ἂν δύνωμαι διὰ βραχυτάτων τοὺς λόγους. A fuller phrase may be noticed in § 42 of this speech, βοηθεῖν καὶ τὰ δίκαια ἀποδιδόναι.

The exordium has several points of coincidence with that of Or. 45. See p. 50.

In the next four sections the plaintiff states the origin of the bad blood between the defendant's family and himself. The narrative, though part of the διήγησις which naturally follows immediately after the προόμιον of a forensic speech, is only preliminary to the recital of the facts on which the suit is really founded. It is to this portion of the statement of the case that Rhetoricians like Theodorus of Byzantium would have given the name of προδιήγησις (Arist. Rhet. iii. 13).

§§ 3—6. Two years ago, we were ordered out to Panactum

ρᾶς ἡμῖν προγραφείσης. ἐσκήνωσαν οὖν οἱ υἱεῖς οἱ Κόνωνος τουτουὶ ἐγγὺς ἡμῶν, ὡς οὐκ ἂν ἐβουλόμην· ἡ γὰρ ἐξ ἀρχῆς ἔχθρα καὶ τὰ προσκρούσματ' ἐκείθεν

on garrison duty, and, as ill luck would have it, the sons of Conon pitched their tents close to our own. They picked quarrels with our servants and were persistently guilty of drunken and indecent conduct at the expense of our attendants and ourselves. My messmates and myself represented the case to the general, and he reprimanded them severely for their treatment of ourselves and for their misbehaviour in the camp. Notwithstanding, they burst in upon us on that very evening and violently assaulted us; indeed serious consequences might have ensued, but for the arrival of the officers on the scene of disorder. On our return to Athens, there was naturally some ill blood between Conon's sons and myself, but I simply made up my mind to have nothing more to do with them. However, as the result proved, my collision with the sons in the camp led to my being grossly maltreated by their father the defendant, who instead of rebuking his sons for the original outrage, has himself been guilty of a much more shameful aggression.

3. ἔτος τουτὶ τρίτον.] 'two years ago' (sc. ἐστὶ). Dem. Olynth. 3 § 4 ἀπηγγέλη...τρίτον ἢ τέταρτον ἔτος τουτὶ, Ἡραίων τεύχος πολιορκῶν.

The present passage places the date of the speech in the 'third year after,' or, as we should say, 'two years after,' an expedition to Panactum, a fort on the borders of Attica and Boeotia. Of such an expedition we read in Or. 19 (de

fals. leg.) § 326, περι...τῆς πρὸς Πανάκτω χώρας μεθ' ὅλων ἐξερχόμεθα, ὃ ἔως ἦσαν Φωκεῖς σφῶι οὐδεπώπορ' ἐποιήσαμεν. If these expeditions are identical, the speech was delivered in B.C. 343 or 341, according as we place the historical event in B.C. 345 (with Clinton) or 343 (with Westermann).—A. Schaefer, however, plausibly connects the event in question with certain military operations in B.C. 357, and thus obtains for the date of the speech B.C. 355, the year before the delivery of the orations against Leptines and Androtion (*Dem. und seine Zeit*, III. 2. 251).

On Panactum, or Panactus, Harpocration has this article: Πανάκτος· Δημοσθένους κατὰ Κόνωνος· πόλις ἐστὶ μεταξὺ τῆς Ἀττικῆς καὶ τῆς Βοιωτίας. He further notes that Thucydides makes the word neuter and Menander masculine.

φρουρᾶς..προγραφείσης.] 'being ordered out on garrison duty.' For προγράφειν, in the sense of 'putting up a public notice' at head-quarters, compare Arist. *Aves* 448, ἀκούετε λεῶ' τοὺς δόλπας νυνμεν | ἀνελομένους θῶπλ' ἀπέναι πάλιν οἰκάδε, | σκοπεῖν δ' ὅτι ἂν προγράφωμεν ἐν τοῖς πινακίοις, and Aristotle ἐν Ἀθηναίων πολιτείᾳ (quoted by Harpocration s. v. στρατεία), ὅταν ἡλικίαν ἐκτέμνωσι, προγράφουσιν ἀπὸ τίνος ἀρχοντος ἐπώνυμου μέχρι τίνος δεῖ στρατεῦσθαι. ὡς οὐκ ἂν ἐβουλόμην] sc. σκεπνῶσαι αὐτοὺς, 'and would to heaven they had not!'

προσκρούσματα.] 'collisions.' Or. 89 § 18, πολλοῖς προσκρούει

ἡμῖν συνέβη, ἐξ ὧν δ' ἀκούσεσθε. ἔπινον ἐκάστοτε οὔτοι τὴν ἡμέραν, ἐπειδὴ τάχιστα ἀριστήσαιεν, ὕλην, καὶ τοῦθ' ἔως περ ἡμεν ἐπὶ τῇ φρουρᾷ, διετέλουν ποι-  
 4 οῦντες. ἡμεῖς δ' ὥσπερ ἐνθάδ' εἰάθαμεν, οὕτω διή-  
 γομεν καὶ ἔξω. ἦν οὖν δειπνοποιεῖσθαι τοῖς ἄλλοις ὥραν συμβαίνοι, ταύτην ἂν ἤδη ἐπαρφύουν οὔτοι, τὰ μὲν πολλὰ εἰς τοὺς παῖδας ἡμῶν τοὺς ἀκολούθους, τε-  
 λευτώντες δὲ καὶ εἰς ἡμᾶς αὐτούς· φήσαντες γὰρ καπ-  
 νίζειν αὐτούς<sup>a</sup> ὀψοποιουμένους τοὺς παῖδας ἢ κακῶς λέγειν ὅ τι τύχοιεν, ἔτυπτον καὶ τὰς ἀμίδας<sup>b</sup> κατεσκε-

<sup>a</sup> αὐτοὺς Ζ.<sup>b</sup> Bekker.

ἀμίδας Ζ.

and Or. 37 § 15, ὅ φίλοις ἦν...  
 τούτῳ προσκεκροκότα.

ἀριστήσαιεν...δειπνοποιεῖσθαι.]  
 On ἀρίστον and δείπνον, see  
 Becker's *Charicles* p. 313, ed. 3.  
 —The optative ἀριστήσαιεν de-  
 notes frequent and repeated  
 action, which is also clearly  
 brought out by ἐκάστοτε and  
 διετέλουν ποιούντες.

4. ὥραν.] Not to be trans-  
 lated 'hour' but 'time,' as  
 ὥρα in the former sense is  
 found in late Greek only, and  
 was probably first so used by  
 Hipparchus the Alexandrine  
 astronomer in the second cen-  
 tury B.C. In phrases like ἔθνον  
 ὥραν οὐδένοσ κοινὴν θεῶν (*Eumen.*  
*109*) and τὴν τεταγμένην ὥραν  
 (*Bacch.* 724) the rendering  
 'hour' should be avoided as  
 open to misconception.

ταύτην...ἐπαρφύουν...εἰς τοὺς  
 παῖδας.] Liddell and Scott in-  
 advertently quote this passage  
 as an instance of παραινέειν being  
 used transitively 'like ὑβρίζειν,'  
 whereas ταύτην is obviously the  
 accusative of time (sc. τὴν ὥραν)  
 and the object of παραινέειν is  
 expressed by εἰς τοὺς παῖδας.  
 For the corresponding passive to  
 this intransitive active, see

§ 5 *fin.* παραινουμένους. [παρ-  
 οῖνος and παραινέειν mean, not  
 'to be intoxicated,' but 'to be  
 abusive over one's cups.' P.]

φήσαντες—ἔτυπτον.] i.e. φή-  
 σαντες τοὺς παῖδας ὀψοποιουμένους  
 καπνίζειν αὐτοὺς, ἢ κακῶς λέγειν,  
 ὅ τι τύχοιεν λέγοντες, ἔτυπτον.  
 They made out that our ser-  
 vants, while cooking, annoyed  
 them with smoke, or were  
 constantly insolent to them.  
 Our servants could not open  
 their mouths without being  
 charged with sauciness. [Per-  
 haps ἢ ὅτι τύχοιεν, sc. φήσαντες,  
 'or any other such pretence.'  
 P.]

ἔτυπτον.] See *Excursus* (A) at  
 the end of the present speech.

τὰς ἀμίδας κ.τ.λ.] 'They emp-  
 tied the chamber-pots on them.'  
 K. (Bekker's *Leipsig* ed. has  
 κατεσκεδάμνυσαν.) Hermogenes,  
 who selects the present narra-  
 tive as an instance of ἀλὴ  
 διήγησις, draws attention to the  
 orator's plain-speaking in the  
 clauses before us, and quotes  
 them from memory with this  
 comment: οὐ γὰρ εἶχε μᾶλλον  
 δεινῶσαι τῷ λόγῳ ἢ τὰ πράγματα  
 λέγων αὐτὰ ὁ ῥήτωρ ψιλά, ἀ  
 ἐπραττον ἐκείνοι· γυμὰ γὰρ τοι

δάννουν καὶ προσεοῦρουν καὶ ἀσελγείας καὶ ὕβρεως οὐδ' ὅτιοῦν ἀπέλειπον<sup>ο</sup>. ὁρῶντες δ' ἡμεῖς ταῦτα καὶ λυπούμενοι τὸ μὲν πρῶτον ἀπεπεμψάμεθα, ὡς δ' ἐχλεύαζον ἡμᾶς καὶ οὐκ ἐπαύοντο, τῷ στρατηγῷ τὸ πρῶγμα εἶπομεν κοινῇ πάντες οἱ σύσσιτοι προσελθόν-  
 5 τες, οὐκ ἐγὼ τῶν ἄλλων ἔξω. λοιδορηθέντος δ' αὐτοῖς ἐκείνου καὶ κακίσαντος αὐτοὺς οὐ μόνον περὶ ὧν εἰς ἡμᾶς ἡσέλγαινον, ἀλλὰ καὶ περὶ ὧν ὅλως ἐποίουν ἐν τῷ στρατοπέδῳ, τοσούτου ἐδέησαν παύσασθαι ἢ αἰσχυνθῆναι ὥστ', ἐπειδὴ θάττον συνεσκότασεν, εὐθὺς ὡς ἡμᾶς εἰσεπήδησαν ταύτῃ τῇ ἐσπέρᾳ, καὶ τὸ μὲν 1258  
 πρῶτον κακῶς ἔλεγον, τελευτῶντες δὲ καὶ πληγὰς ἐνέτειναν ἐμοί, καὶ τοσαύτην κραυγὴν καὶ θόρυβον περὶ τὴν σκηνὴν ἐποίησαν ὥστε καὶ τὸν στρατηγὸν καὶ τοὺς ταξιάρχους ἐλθεῖν καὶ τῶν ἄλλων στρατιωτῶν τινας, οἵπερ ἐκώλυσαν μηδὲν ἡμᾶς ἀνήκεστον παθεῖν μηδ' αὐτοὺς ποιῆσαι παροινουμένους ὑπὸ τούτων<sup>α</sup>.

<sup>ο</sup> Bekker.

ἀπέλειπον Z cum FΣΦr.

<sup>α</sup> τούτων Z.

λεγόμενα πλείονα ἰσχυρὸν ἔλαβεν ἢ εἰ τις αὐτὰ ἐκόσμει λόγοις. (Spengel, *Rhet. Gr.* II. 199.)

ἀπεπεμψάμεθα.] Not 'we drove them away,' but (as is implied by the use of the middle voice) 'we took no notice,' literally, 'we put the matter (ταῦτα) aside from ourselves,' 'dismissed it from our thoughts.' [Cf. *Eur. Hec.* 72, ἀποτέμποιμαι ἐννυχον ὄψω. In the present passage it is a remarkable use. P.]

πάντες οἱ σύσσιτοι.] 'not I alone, but all the messmates in a body.' K. Cf. *Lysias Or.* 13 § 79 (referred to by Westermann) οὔτε συσσιτήσας τούτῳ οὐδέ τις φανήσεται οὔτε σύσκητος γενόμενος.

δ. λοιδορηθέντος κ.τ.λ.] 'He censured and rebuked them

severely, not only for their brutal treatment of ourselves, but also for their general behaviour in the camp.' For λοιδορηθείς used in the sense of the aorist middle, cf. *διαλεχθείς* in § 7.—On κακίσαντος, cf. note on *Or.* 84 § 2.

ἐπειδὴ θάττον συνεσκότασεν.] 'As soon as ever it grew dark,' 'no sooner was it dusk than...' For ἐπειδὴ θάττον (which is less common than ἐπειδὴ τάχιστα, § 8), cf. *Dem. Or.* 37 § 41 ἐπειδὴ θάττον ἀνέλετο, *Plato Protag.* 425 c, ἐπειδὴ θάττον συνιῇ τις, *Xen. Cyrop.* III. 3—20 ἢ θάττον.

ποιῆσαι] sc. μηδὲν ἀνήκεστον. The plaintiff candidly admits that the arrival of the authorities prevented himself and his friends doing violence to Canon's

τοῦ δὲ πράγματος εἰς τοῦτο προελθόντος, ὡς δεῦρ' ἐπανήλθομεν, ἦν ἡμῖν, οἷον εἰκὸς, ἐκ τούτων ὀργή καὶ ἔχθρα πρὸς ἀλλήλους. \*οὐ μὴν ἔγωγε ᾧμην δεῖν οὔτε δίκην λαχεῖν αὐτοῖς οὔτε λόγον ποιείσθαι τῶν συμβάντων οὐδένα, ἀλλ' ἐκεῖνο ἀπλῶς ἐγνώκειν τὸ λοιπὸν εὐλαβεῖσθαι καὶ φυλάττεσθαι μὴ πλησιάζειν τοῖς τοιούτοις. πρῶτον μὲν οὖν τούτων ὧν εἶρηκα βούλομαι τὰς μαρτυρίας παρασχόμενος, μετὰ ταῦτα οἶα ὑπ' αὐτοῦ τούτου πέπονθα ἐπιδείξαι, ἵνα εἰδῇτε ὅτι ᾧ προσῆκε τοῖς τὸ πρῶτον ἀμαρτηθεῖσιν ἐπιτιμᾶν, οὗτος αὐτὸς πρότερος πολλῶν δεινότερ' εἵργασται.

## ΜΑΡΤΥΡΙΑΙ.

## 7 \*Ὡν μὲν τοίνυν οὐδένα ᾧμην δεῖν λόγον ποιείσθαι,

\* μὰ τοὺς θεοὺς, οὐ μὴν ἔγωγε *Z cum libris Demosthenis*; οὐ μὴν ἔγωγε μὰ τοὺς θεοὺς *Bekker cum Dionysio*.

sons in self-defence, provoked and exasperated as they were by the brutal assaults of their opponents.

*παρουνομένων.*] The active construction is *παροινεῖν εἰς τινα*, cf. § 4 and see note on Isocr. *ad Dem.* § 30, *πιστευθέντες*.

6. *τοῖς τοιούτοις.*] Not 'men of like character to the sons of Conon,' but rather 'the sons of Conon themselves, who had shewn themselves to be of such a character as I have described.'

*μετὰ ταῦτα οἶα—προσῆκε.*] These few words as printed in Dindorf's ed. include no less than seven instances of *hiatus*, five of which can however be readily removed by elision. Benseler, who has exhaustively treated this subject in his volume *de hiatus in oratoribus Graecis*, says of the speeches of Dem. against Conon and Callicles: *orator solet verba ita coniungere et collocare, ut plerum-*

*que vocalium concursus evitetur.* p. 152.

*τοῖς...ἀμαρτηθεῖσιν.*] Neuter, sc. ὑπὸ τῶν υἱῶν τῶν Κόνωνος. *πρότερος.*] as a ringleader in acts of aggression.

Here follows the narrative proper.

§§ 7—9. *Not long after our return from the camp, I was taking my usual evening walk in the market place with a friend of mine, when a son of the defendant, Ctesias by name, who was intoxicated at the time, caught sight of us, and after raising a yell and muttering something indistinctly to himself, went off to a part of the town where a large party, including his father, had met for a carouse; summoned them to his standard, and made them march with him down to the market place. On closing with us, one of them fell upon my friend and pinned him, while Conon and his son and another*

ταύτ' ἔστιν. χρόνῳ δ' ὕστερον οὐ πολλῷ περιπα-  
τούντος, ὥσπερ εἰώθειν, ἐσπέρας ἐν ἀγορᾷ μου μετὰ  
Φανοστράτου τοῦ Κηφισιέως, τῶν ἡλικιωτῶν τινὸς,  
παρέρχεται Κτησίας ὁ υἱὸς ὁ τούτου, μεθύων, κατὰ  
τὸ Λεωκόριον, ἐγγὺς τῶν Πυθοδώρου. κατιδὼν δ' ἡμᾶς  
καὶ κραυγάσας, καὶ διαλεχθεῖς τι πρὸς αὐτὸν οὕτως ὥς

attacked myself, stripped me of my cloak, dashed me into the mud, jumped upon me, and otherwise grossly maltreated me. The language I heard them use, as I lay helpless on the ground, was simply awful, and would hardly bear repeating; Conon himself meanwhile set up a crowing like a victorious game-cock. When they had left me, some people, who happened to come up, carried me home, and afterwards took me to a public bath, where they washed me all over, and brought the surgeons to see me.

I will now call evidence, to attest to these facts.

7. ἐσπέρας.] Cf. νυκτὸς in § 28, and see Farrar's *Gk. Syntax* § 46 n. and Abbott's *Shaksp. Gr.* § 176.

ἐν ἀγορᾷ.] anarthrous, like ἄστει and πόλιν (when used of Athens); below we have εἰς τὴν ἀγορὰν. Similarly εἰς βαλανεῖον in § 9, followed by εἰς τὸ βαλανεῖον in § 10.

The *Agora* lay below the northern side of the Acropolis. τοῦ Κηφισιέως.] The deme Κηφισία belonged to the tribe Erechtheis, and lay N.E. of Athens at the foot of Pentelicus. 'Cephissia was the demus of the comic poet—the Attic Terence—Menander.' Wordsworth, *Athens and Attica*.

Λεωκόριον.] The monument of the daughters of Leos, (Praxithea, Theope, Eubule,)

who, at the command of an oracle, sacrificed themselves for their country. (Dem.) Or. 60 (Epitaph.) § 29 (αἱ Λεὼ κόραι) ἐαυτὰς ἔδοσαν σφάγιον τοῖς πολίταις ὑπὲρ τῆς χώρας. Cicero *de nat. deor.* iii. § 50, Harpocration states that it was ἐν μέσῳ τῷ Κεραμειῷ, i.e. in the midst of the inner Cerameicus, the N.W. district of Athens, lying within the walls, as opposed to the outer Cerameicus, the κάλλιστον προάστειον where the Athenian warriors were buried. (Thuc. ii. 34, Arist. *Aves* 395.)

It was close to the *Leocorium* that Hipparchus was slain by Harmodius and Aristogeiton. (Thuc. vi. 57.) [κατὰ is 'opposite to,' as Aesch. *Theb.* 528, τύμβον κατ' αὐτὸν διογενεὺς 'Ἀμφίλορος, and so frequently in Thucyd. in the sense of 'off a coast, or river.' P.]

τῶν Πυθοδώρου.] 'The premises of Pythodorus,' either understanding οἰκιῶν, or more probably δωματίων, like the expression which occurs twice in Or. 43 (*Macart.*) § 62 (νόμος) εἰς τὰ τοῦ ἀποθανόντος εἰσιέναι. Theodor. ii. 76. μέσαν κατ' ἀμαξίτον, ἧ τὰ Λύκωνος. [Ar. *Vesp.* 1440, οὕτω δὲ καὶ σὺ παρὰ τρεχ' ἐς τὰ Πιττᾶδων. P.]

διαλεχθεῖς.] Cf. § 5 λοιδορηθεῖς. —ὥς δὲ μεθύων, sc. διαλεχθείη. See on Or. 84 § 82.—μαθεῖν, sc. ἡμᾶς.



ἀν μεθύων, ὥστε μὴ μαθεῖν ὃ τι λέγοι, παρήλθε πρὸς Μελίτην ἄνω ἔπινον γὰρ ἐνταῦθα (ταῦτα γὰρ ὕστερον ἐπυθόμεθα) παρὰ Παμφίλῳ τῷ κναφεῖ Κόνων 1259 οὗτοσὶ, Θεότιμός τις, Ἀρχεβιάδης, Σπίνθαρος ὁ Εὐβούλου, Θεογένης ὁ Ἀνδρομένους, πολλοὶ τινες, οὓς 8 ἐξαναστήσας ὁ Κτησίας ἐπορεύετο εἰς τὴν ἀγοράν. καὶ ἡμῖν συμβαίνει ἀναστρέφουσιν ἀπὸ τοῦ Φερρεφαττίου καὶ περιπατοῦσι πάλιν κατ' αὐτό πῶς τὸ Λεωκόριον εἶναι, καὶ τούτοις περιτυγχάνομεν. ὥς δ' ἀνεμίχθημεν, εἰς μὲν αὐτῶν, ἀγνώς τις, ἸΦανοστράτῳ προσπί-  
 † + τῷ Ζ.

πρὸς Μελίτην ἄνω.] A hilly district within the walls, comprising part of the western half of Athens. It was so called from Melite, wife of Hercules (Leake's *Athens* i. 441, 485).

ἔπινον κ.τ.λ.] Either Pamphilus 'the fuller' or 'wool-stapler' had invited Conon and his set to a friendly symposium, or, which is more probable, his shop was their place of lounge. Lysias 24 § 20 ἕκαστος ὑμῶν εἰθίσται προσφοιτᾶν ὁ μὲν πρὸς μυροπωλεῖον, ὁ δὲ πρὸς κουρεῖον ὁ δὲ πρὸς σκυτοτομεῖον, ὁ δ' ὅποι ἀν τύχῃ καὶ πλείστοι μὲν ὡς τοὺς ἐγγυτὰν τῆς ἀγορᾶς κατεσκευασμένους, ἐλάχιστοι δὲ ὡς τοὺς πλείστον ἀπέχοντας αὐτῆς. (See Becker's *Charicles* p. 279.)—Ἀρχεβιάδης. See note on § 34.

Σπίνθαρος ὁ Εὐβούλου.] This Eubulus was probably the orator and statesman, one of Demosthenes' most formidable opponents. This supposition is strongly confirmed by the fact that the orator in question is known as Εὐβούλος Σπινθάρου Προβαλίστιος. The person mentioned in the text would, according to the common custom, be called Spintharus, after his

grandfather. Cf. note on Or. 39 § 27. (A. Schäfer's *Dem. u. s. Zeit*, i. 190 n.)

ἐξαναστήσας.] The word is sometimes used as a military term of starting soldiers from ambush, as in Thuc. iii. 108. 3 ἐξανάσαντες, and Xen. *Hell.* iv. 8. 37. The orator makes his client, a young soldier, characteristically describe the scuffle in the language of military life. Similarly, a few lines below, ἀνεμίχθημεν 'when we closed with one another.'

8. συμβαίνει...καὶ περιτυγχάνομεν.] A simple and somewhat archaic form of phrase instead of ὅτε περιτυγχάνομεν. Thuc. i. 50, ἥδη ἦν ὅψε καὶ οἱ Κορινθιοὶ ἐξαπίνης πύρμαν ἐκρούοντο, Soph. *Phil.* 354 (Kühner § 518 8).

Φερρεφαττίου.] The site of the temple of Persephone is uncertain; it is supposed to have been south of the Leocorium, and close to the statue of Triptolemus, but we have no data worth mentioning besides the vague indications of the present passage (Leake's *Athens* i. 488, and Wordsworth's *Athens and Attica*, p. 150).

εἰς μὲν—ἐκείνον.] 'One of

πτει καὶ κατεῖχεν ἐκείνον, Κόνων δ' οὐτοσὶ καὶ ὁ υἱὸς αὐτοῦ καὶ ὁ Ἀνδρομένους υἱὸς ἐμοὶ περιπεσόντες τὸ μὲν πρῶτον ἐξέδυσαν, εἰθ' ὑποσκελίσαντες καὶ ῥάξαντες εἰς τὸν βόρβορον οὕτω διέθηκαν ἐναλλόμενοι καὶ ὑβρίζοντες ὥστε τὸ μὲν χεῖλος διακόψαι, τοὺς δ' ὀφθαλμούς συγκλείσαι· οὕτω δὲ κακῶς ἔχοντα κατέλιπον<sup>8</sup> ὥστε μήτε ἀναστήναι μήτε φθέγξασθαι δύνασθαι. κείμενος δ' αὐτῶν ἤκουον πολλὰ καὶ δεινὰ λεγόντων. καὶ τὰ μὲν ἄλλα καὶ βλασφημίαν ἔχει τινὰ, καὶ ὀνομάζειν ὀκνήσαιμ' ἂν ἐν ὑμῖν ἔνια, ὃ δὲ τῆς

<sup>8</sup> Bekker cum Dionysio.

καταλείπειν Ζ cum FΣΦ. κατα-

λείπειν kr.

them, whom I failed to identify, suddenly fell on Phanostratus, and pinned him.' The present προσπίπτει gives a vivid effect to the description, and the imperfect κατεῖχεν must also be noticed as implying that the plaintiff's friend was held fast during the whole of the ensuing scuffle, and therefore could offer no assistance.—ὁ υἱὸς αὐτοῦ, Ctesias. — ἐξέδυσαν, 'stripped me' of my cloak § 9, φέροντο θολομάτιον λαβόντες μου.

εἰθ'—συγκλείσαι.] 'next, they tripped me up, and made me fall heavily into the mud, and by leaping upon me, and maltreating me, they put me in such a condition that they cut my lip right through, and bunged up my eyes.'

9. τὰ μὲν ἄλλα—ἐν ὑμῖν ἔνια.] i.e. 'much of what they said was most abusive, and some of it I should be sorry to repeat in your presence.' Cf. Or. 18 § 103, ὅς' ὀκνήσαιμ' ἂν πρὸς ὑμᾶς εἰπεῖν, 21 § 79, οὐ γὰρ ἐγωγε προαχθεῖν ἂν εἰπεῖν πρὸς ὑμᾶς τῶν τότε ρηθέντων οὐδέν (quoted by Westermann), and esp. Aeschin. Timarch. § 55, τοιαῦτα

ἁμαρτήματα καὶ τοιαύτας ὕβρεις... οἷας ἐγὼ μὰ τὸν Δία τὸν Ὀλύμπιον οὐκ ἂν τοιμήσαιμι πρὸς ὑμᾶς εἰπεῖν· ἀ γὰρ οὗτος ἐργῶ πράττων οὐκ ἤσχονετο, ταῦτ' ἐγὼ λόγῳ σαφῶς ἐν ὑμῖν εἰπὼν οὐκ ἂν ἐδεξάμην ζῆν. Cic. Verr. II. 1, 32.

This rhetorical device of professing to have compunctions at repeating the bad language of one's opponent is sufficiently obvious. The effect is threefold, (1) the court is left to imagine that the terms of abuse were singularly offensive; (2) the plaintiff is accredited with being a man of high principle for hesitating to repeat the abominable language of his opponent,—for what Aristotle would call his δυσχέρεια τῶν αἰσχυρῶν; and (3) the court is flattered by the compliment implied in the assurance that the language was too indecent to be repeated in their hearing. Cf. Arist. Rhet. III. 7, παθητικὴ δὲ, εἰς μὲν ἣ ὕβρις, ὀργιζομένου λέξις, εἰς δὲ ἀσεβῆ καὶ αἰσχυρά, δυσχεραίνοντος καὶ εὐλαβουμένου καὶ λέγειν.

ὑβρεώς ἐστὶ τῆς τούτου σημείον καὶ τεκμήριον τοῦ πᾶν τὸ πρᾶγμα ὑπὸ τούτου γεγενῆσθαι, τοῦθ' ὑμῖν ἔρω· ἦδε γὰρ τοὺς ἀλεκτρυόνας μιμούμενος τοὺς νενικηκότας, οἱ δὲ κροτεῖν τοῖς ἀγκώσιν αὐτὸν ἤξιουν ἀντὶ πτερύγων τὰς πλευράς. καὶ μετὰ ταῦτα ἐγὼ μὲν ἀπεκομίσθην ὑπὸ τῶν παρατυχόντων γυμνός, οὗτοι δ' ὄχοντο θοιμάτιον λαβόντες μου. ὥς δ' ἐπὶ τὴν θύραν ἦλθον, κραυγὴ καὶ βοή τῆς μητρὸς καὶ τῶν θεραπαινίδων ἦν, καὶ μόλις<sup>h</sup> ποτὲ εἰς βαλανεῖον ἐνεγκόντες με καὶ περιπλύναντες ἔδειξαν τοῖς ἰατροῖς. ὥς οὖν ταῦτ' ἀληθῆ λέγω, τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

<sup>h</sup> Bekker.

μόγισ Z cum Σ.

σημείον.] To be taken with ὑβρεως; τεκμήριον with τοῦ γεγενῆσθαι. The former is 'an indication,' 'a sign'; the latter 'a conclusive proof,' (note on Isocr. *ad Dem.* § 2).

ἦδε—πλευράς.] 'he began to crow, mimicking the fighting-cocks that have won a victory, while the rest bade him flap his elbows against his sides, like (*lit.* in lieu of) wings.'

If the authority of Aelian (*var. hist.* ii. 28) may be trusted, cock-fighting was a political institution at Athens, and took place in the public theatre once a year. (See esp. Becker's *Charicles* p. 77 n., also p. 80—81, where the whole scene described in the text is admirably woven in with the adventures of Charicles.)

[Plato, *Theaet.* p. 164, φαίνόμεθ' αἰ ἀλεκτρυόνης ἀγεννοῦς δίκην, πρὶν νενικηκέναι, ἀποπῆδῆσαντες ἀπὸ τοῦ λόγου εἶδιν. *Ar. Vesp.* 705, καθ' ὅταν οὕτως γ' ἐκισίγη ἐπὶ τῶν ἐχθρῶν τιν' ἐπιρρύζας, ἀγρίως αὐτοῖς ἐπιπηδῆς.

The fighting-cock springs upon its adversary, and uses its spur to strike the head. P.]

γυμνός.] so. ἀνευ τοῦ ἱματίου, stripped of his cloak, as is clearly shewn by the following clause. *Ar. Lys.* 150 ἐν τοῖς χιτωνίοισι... γυμναί. *Nub.* 497, κατὰθον θοιμάτιον..... γυμνὸς εἰσένειννομίζεται.—ὄχοντο, in its usual pluperfect sense, 'after stripping me of my cloak, they had taken to their heels.'—ἦλθον, possibly first person singular, but more probably third person plural, referring to οἱ παρατυχόντες. But cf. § 20, ὑγιὲς ἐξελθὼν φοράδην ἦλθον οἰκῶδε.

εἰς βαλανεῖον.] a public bath, as is shewn by § 10, ἵνα μὴ μακρὰν φερομένην οἰκαδε ἐκ τοῦ βαλανείου (W.). See Becker's *Charicles* p. 147—152.—For the context, cf. *Lysias*, fragm. 75 (of a boy who had been severely thrashed) οὐ δυνάμενον δὲ βαδίζειν ἐκόμισαν αὐτὸν εἰς τὸ δαίγμα ἐν κλίνῃ, καὶ ἐπέδειξαν πολλοῖς Ἀθηναίων.

## ΜΑΡΤΥΡΕΣ.

1260

- 10 Συνέβη τοίνυν, ὃ ἄνδρες δικασταί, καὶ Εὐξίθεον  
 τουτοῦ τὸν Χολλεῖδην, ὅνθ' ἡμῖν συγγενή, καὶ Μει-  
 δίαν μετὰ τούτου ἀπὸ δείπνου ποθὲν ἀπionτας περιτυ-  
 χεῖν πλησίον ὄντι μοι τῆς οἰκίας ἤδη, καὶ εἰς τὸ βαλα-  
 νεῖον φερομένῳ παρακολουθῆσαι, καὶ ἰατρὸν ἄγουσι  
 παραγενέσθαι. οὕτω δ' εἶχον ἀσθενῶς ὥσθ', ἵνα μὴ  
 μακρὰν φεροίμην οἴκαδε ἐκ τοῦ βαλανείου, ἐδόκει τοῖς  
 παρούσιν ὡς τὸν Μειδίαν ἐκείνην τὴν ἐσπέραν κομίσαι  
 με<sup>1</sup> καὶ ἐποίησαν οὕτως· λαβὲ οὖν καὶ τὰς τούτων  
 μαρτυρίας, ἵν' εἰδῇθ' ὅτι πολλοὶ συνίσασιν ὡς ὑπὸ  
 τούτων ἰβρίσθην.

## ΜΑΡΤΥΡΙΑΙ.

Λαβὲ δὴ καὶ τὴν τοῦ ἱατροῦ μαρτυρίαν.

## ΜΑΡΤΥΡΙΑ.

- 11 Τότε μὲν τοίνυν παραχρήμα ὑπὸ τῶν πληγῶν ὦν<sup>κ</sup>

<sup>1</sup> Bekker. om. Z cum Σ.

<sup>κ</sup> Bekker. om. Z cum Σ.

§ 10. *I was followed to the bath by Meidias and by a relative of mine who was returning with him from dinner; and as I was too weak to be carried home again that evening, I was taken to the house of Meidias for the night, as will be proved by evidence.*

10. Χολλεῖδην.] 'Of Χολλεῖδαι,' (Or. 35 § 20), a deme of the tribe Leontis, probably situated south of Hymettus and west of *Mons Anhydrius*, or Hymettus minor (Leake's *Athens*, II. 57 and Wordsworth's *Athens and Attica*, chap. xxv.).—τουτοῦ implies that Euxitheus was present in court; the other, Meidias (probably the same as the subject of the well-known oration of Dem.), was absent.—τῆς οἰκίας, Ariston's home.

τὸ βαλανεῖον.] with the article, in reference to βαλανεῖον already mentioned without the article. So in § 7, ἐν ἀγορᾷ. εἰς τὴν ἀγορὰν.

ἄγουσι.] The construction is καὶ παραγενέσθαι αὐτοῖς ἄγουσιν ἰατρὸν.

ὡς τὸν Μειδίαν.] 'to Meidias' house.' For ὡς introducing an accusative of motion towards a person, cf. Thuc. IV. 79, ἀφίκετο ὡς Περδικκάν καὶ εἰς τὴν Χαλκιδικὴν.

§§ 11, 12. *The surgeon and others have deposed to the immediate consequences of the assault; afterwards, though he expressed no great fears about my external bruises, intermittent attacks of fever ensued, attended by extreme internal pain. I was quite unable to*

ἔλαβον καὶ τῆς ὕβρεως οὕτω διετέθην, ὡς ἀκούετε καὶ μεμαρτύρηται παρὰ πάντων ὑμῖν τῶν εὐθύς ιδόντων. μετὰ δὲ ταῦτα τῶν μὲν οἰδημάτων τῶν ἐν τῷ προσώπῳ καὶ τῶν ἐλκῶν οὐδὲν ἔφη φοβεῖσθαι λίαν ὁ ἱατρός, πυρετοὶ δὲ παρηκολούθουν μοι πάνυ συνεχεῖς καὶ ἀλγήματα ὅλου μὲν τοῦ σώματος πάνυ σφοδρὰ καὶ δεινὰ, μάλιστα δὲ τῶν πλευρῶν καὶ τοῦ ἥτρου, καὶ τῶν σιτίων <sup>12</sup> ἀπεκεκλείμην<sup>1</sup>. καὶ ὡς μὲν ὁ ἱατρός ἔφη, εἰ μὴ κάθαρσις αἵματος αὐτομάτῃ μοι πάνυ πολλὴ συνέβη περιωδύνῳ ὄντι καὶ ἀπορουμένῳ ἤδη, κὰν ἔμπυος γενόμενος διεφθάρην· νῦν δὲ τοῦτ' ἔσωσε τὸ αἷμα ἀποχωρῆσαν. ὡς οὖν καὶ ταῦτ' ἀληθὴ λέγω, καὶ παρηκολούθησέ μοι τοιαύτῃ νόσος ἐξ ἧς εἰς τοῦσχατον ἦλθον, ἐξ ὧν ὑπὸ 1261 τούτων ἔλαβον πληγῶν, λέγε τὴν τοῦ ἱατροῦ μαρτυρίαν καὶ τὴν τῶν ἐπισκοπούντων.

<sup>1</sup> Bekker cum 1A<sup>1</sup>.

eat; and but for a violent discharge of blood at a critical time, death would have resulted, as will be proved by medical evidence.

τῶν σιτίων ἀπεκεκλείμην.] 'I was cut off from, debarred from, my food,' 'too ill to eat anything.' Hesychius explains ἀποκεκλῆσθαι σιτίων ἀνορέκτως ἔχειν τροφῆς.—Strict Atticists prefer ἀπεκεκλήμην (from old Attic κλήω) to ἀπεκεκλείμην and ἀπεκεκλείσμην (Veitch, *Gk. verbs*).—ἥτρου, 'the pit of the stomach.'

12. εἰ μὴ—διεφθάρην.] 'If a copious discharge of blood had not spontaneously occurred, while I was in extreme agony and at the very crisis of the malady, I should have died of internal suppuration.' [An injury caused by the stamping upon him when down, was relieved at last by passing blood from some

ἀπεκεκλείσμην Z.

internal hemorrhage. P.] περιωδύνῳ is possibly a technical term, at any rate it is used by Hippocrates, 'the Father of Medicine,' and he also has περιωδυνεῖν, περιωδυνία and περιωδυνᾶσθαι. [μοῖρα μὴ περιωδυνος μὴδὲ δεμνιστήρης occurs in Aesch. *Ag.* 1423. P.]—ἀπορουμένῳ is either passive, 'despaired of,' or more probably middle, 'doubtful of my recovery,' οἷα εἰδῶς εἰ περιφεύξομαι § 28.—On the quantity of ἔμπυος, see *Excursus* (B) to this speech.

τοῦτ' ἔσωσε.] The construction is τοῦτο τὸ αἷμα, ἀποχωρῆσαν, ἔσωσέ με, 'the passing of this blood saved my life.'

παρηκολούθησε—πληγῶν] Constr. τοιαύτῃ νόσος, ἐξ ἧς εἰς τοῦσχατον ἦλθον, παρηκολούθησέ μοι ἐκ τῶν πληγῶν, αἷς ὑπὸ τούτων (sc. Conon, Ctesias and Theogenes) ἔλαβον.

τῶν ἐπισκοπούντων.] 'those who

## ΜΑΡΤΥΡΙΑΙ.

- 13 "Οτι μὲν τοίνυν οὐ μετρίας τινὰς καὶ φαύλας λαβῶν πληγὰς, ἀλλ' εἰς πᾶν ἐλθὼν διὰ τὴν ὕβριν καὶ τὴν ἀσέλγειαν τὴν τούτων πολὺ τῆς προσηκούσης ἐλάττω δίκην εἴληχα, πολλαχόθεν νομίζω δῆλον ὑμῖν γεγενῆσθαι. οἶμαι<sup>m</sup> δ' ὑμῶν ἐνίους θαυμάζειν τίνα<sup>n</sup> ποτ' ἐστὶν ἂν πρὸς ταῦτα τολμήσει Κόνων λέγειν. βούλομαι δὲ προειπεῖν ὑμῖν ἃ ἐγὼ πέπυσμαι λέγειν αὐτὸν παρ-εσκευάσθαι, ἀπὸ τῆς ὕβρεως καὶ τῶν πεπραγμένων

<sup>m</sup> οἶμαι Ζ.<sup>n</sup> τί ποτ' Ζ.

came to see me,' 'visited me in illness.' Xen. *Cyrop.* viii. 2. 25, ὅποτε τις ἀσθενήσῃ τῶν θεραπέεσθαι ἐπικαιρίων, ἐπεσκέυει καὶ παρῆχε πάντα ὅτου εἶδει (W.); also in *middle*, Xen. *Mem.* iii. 11. 10, ἀρρωστήσαντος φίλου φροντιστικῶς ἐπισκέψασθαι.

§§ 13—15. *Let me now tell you beforehand of the course which Conon will take in his reply: he will divert your attention from the facts and try to throw ridicule on the whole affair; he will tell you it was only the playful pleasantry that is common among young men about town. He will misrepresent us as just like his sons in character, and only different in being hard on other people. But the jury will be inflicting what I may call a fresh outrage upon me, if they are going to believe the defendant's bare assertion about our respective characters and to allow no weight to the evidence of our life and conduct.*

13. *εἰς πᾶν ἐλθὼν.*] While πᾶν ποιεῖν and πάντα ποιεῖν are invariably used in the active sense of 'straining every nerve,' 'leaving no stone unturned,' *εἰς πᾶν ἐλθεῖν* and similar phrases

have often (like *εἰς τοῦσχατον ἐλθεῖν* of the last section) the passive notion of being reduced to the utmost extremity, as in the present passage.

Thus (i) in *active* sense we have Xen. *Cyr.* v. 4. 26 πάντα ἐποιοῦν πειθόντες τὸν βασιλέα, *Anab.* iii. 1. 18 ἐπὶ πᾶν ἐλθοι, ὡς ἡμᾶς τὰ ἔσχατα αἰκισάμενος πᾶσιν ἀνθρώποις φόβον παράσχοι, *Soph. O. T.* 265 κατὰ πάντα ἀφίξομαι ἡγῶν τὸν αὐτόχαρα.

(ii.) in *passive*; Xen. *Hell.* vi. 1. 12 οἶδα δέ, ὅφ' οἷας δύναμει... εἰς πᾶν ἀφίκετο βασιλεὺς. *Plato Symp.* 194 A, μὴδ' ἄν φοβοῖο καὶ ἐν παντὶ εἴης.

τῆς προσηκούσης ἐλάττω δίκην.] 'I have entered on an action much below the merits of the case.' Cf. latter half of § 1.

τίνα ποτ' ἐστὶν ἄ.] The Zurich editors and Westermann prefer τί ποτ' ἐστὶν ἄ, 'what is the import (*sing.*) of the points (*plur.*) that Conon will urge in his defence.' τί... ἄ is more idiomatic than τίνα... ἄ.

ἀπὸ τῆς ὕβρεως—ἐρεῖν.] Inapposition to λέγειν παρσκευάσθαι, and loosely dependent on πέπυσμαι. A simpler construction might have been brought about

τὸ πρᾶγμ' ἄγοντα εἰς γέλωτα καὶ σκώμματα ἐμβαλεῖν  
 14 πειράσσεσθαι, καὶ ἐρεῖν ὡς εἰσὶν ἐν τῇ πόλει πολλοὶ,  
 καλῶν κάγαθῶν ἀνδρῶν υἱεῖς, οἱ παίζοντες οἷα ἄνθρω-  
 ποι νέοι σφίσιν αὐτοῖς ἐπωνυμίας πεποιήνται, καὶ κα-  
 λούσι τοὺς μὲν ἰθυφάλλους, τοὺς δὲ αὐτοληκίθους,  
 ἐρώσι δ' ἐκ τούτων ἑταιρῶν τινὲς, καὶ δὴ καὶ τὸν υἱὸν  
 τὸν ἑαυτοῦ εἶναι τούτων ἕνα, καὶ πολλάκις<sup>mn</sup> περὶ ἑταί-  
 ρας καὶ εἰληφέναι καὶ δεδωκέναι πληγὰς, καὶ ταύτ'  
 εἶναι νέων ἀνθρώπων. ἡμᾶς δὲ πάντας τοὺς ἀδελφούς  
 παροίνους μὲν τινὰς καὶ ὕβριστὰς κατασκευάσει<sup>o</sup>, ἀγνώ-

<sup>mn</sup> Bekker.

<sup>o</sup> Bekker.

κατασκευάσαι Α<sup>1</sup>.

• καὶ περὶ Ζ cum Σ.

• παρασκευάσειν Ζ cum Σ, κατασκευάσει FΦ,

by closing the sentence with *παρεσκευάσθαι* and then begin-  
 ning afresh with some such  
 sentence as the following: ἀπὸ  
 γὰρ τῆς ὕβρεως καὶ τῶν πεπραγ-  
 μένων τὸ πρᾶγμ' ἀπαγαγὼν, εἰς  
 γέλωτα καὶ σκώμματα' ἐμβαλεῖν  
 πειράσσεσθαι, καὶ ἐρεῖ κ.τ.λ., and  
 in English translation this  
 would give a clearer sense than  
 any slavishly literal rendering  
 of the more complex construc-  
 tion in the text. 'He will  
 divert your attention from the  
 wanton outrage and the actual  
 facts of the case; and will  
 endeavour to turn the whole  
 affair into mere jest and ridi-  
 cule.' That *εἰς γέλωτα καὶ*  
*σκώμματα'* ἐμβαλεῖν is the con-  
 struction (and not *καὶ σκώμματα'*  
*ἐμβαλεῖν πειράσσεσθαι, καὶ ἐρεῖν*),  
 appears from (Dem.) *Phil.* 4  
 §75, τὸ πρᾶγμα εἰς γέλωτα καὶ λοι-  
 δορτᾶν ἐμβαλόντες. — Hesychius,  
 referring perhaps to the present  
 passage, has σκώμματα' λοιδορή-  
 ματα γέλωτος χάριν.

14. καλῶν κάγαθῶν.] In good  
 Greek always spelt as two words,  
 not καλῶς καὶ κάγαθός or καλοκάγα-  
 θός (see further, on Isocr. *Paneg.*

§ 78). Trans. 'sons of respecta-  
 ble people, who in their youth-  
 ful frolics have given themselves  
 nicknames.' σφίσιν αὐτοῖς is not  
 necessarily limited to the re-  
 flexive sense, but is sometimes  
 almost equivalent to the re-  
 ciprocal pronoun ἀλλήλοις (see  
 Isocr. *Paneg.* § 34).

ἰθυφάλλους..... αὐτοληκίθους.]  
 'Priapi and Sileni.' K (follow-  
 ing the French translation of  
 Auger). For an account of the  
 word αὐτολήκυθος, see *Excursus*  
 (C) to this speech.

ἐρώσι κ.τ.λ.] The construction  
 is τινὲς ἐκ τούτων ἐρώσιν ἑταιρῶν.  
 — καὶ δὴ καὶ, used in descending  
 to particulars after a general  
 statement. Or. 55 § 10. — περὶ  
 ἑταίρας gen. sing., not acc. pl.  
 [See Or. 21 § 36 p. 525 and  
 Ar. *Vesp.* 1345. P.]

εἰληφέναι καὶ δεδωκέναι πλη-  
 γὰς.] These phrases are used  
 to supply the lack of a perf.  
 passive and active of τύπτω,  
 as the Attic prose writers know  
 nothing of the forms τετύφθαι  
 and τετυφέναι. See *Excursus*  
 (A) on τύπτω.

παροίνους... ὕβριστὰς... ἀγνώμο-

15 ἴσους δὲ καὶ πικρούς. ἐγὼ δ', ὡς ἄνδρες δικασταί, χαλεπῶς ἐφ' οἷς πέπονθα ἐννοχῶς οὐχ ἥττον τοῦτ' ἀγανακτήσασμαι ἢ καὶ ὑβρισθῆναι νομίσασμαι, εἰ οἶόν τ' εἰπεῖν, εἰ ταῦτ' ἀληθὴ δόξει Κόνων οὐτοσί λέγειν περὶ ἡμῶν, καὶ τοσαύτη τις ἄγνοια παρ' ὑμῖν ἐστὶν ὥσθ' ὅποιός ἂν τις ἕκαστος εἶναι φῇ ἢ ὁ πλησίον αὐτὸν αἰ- 1262 τιάσθεται, τοιοῦτος νομισθήσεται, τοῦ δὲ καθ' ἡμέραν βίου καὶ τῶν ἐπιτηδευμάτων μῆδ' ὅτιον ἔσται τοῖς

vas...πικρούς.] Not only 'drunken' and 'insolent,' but also 'hard' (or, 'unforgiving') and 'ill-tempered.' The four epithets, separated into pairs by μέν and δέ, refer, in the case of the first couple, to the actual 'assault and battery,' in the case of the second, to the lawsuit that had since resulted. Conon will in his artful way represent us as really wild sparks like himself, who are yet inconsistent enough to be churlish and ill-tempered, instead of genial and good-humoured as πρόνοι and ὑβρισταὶ ought to be.

κατασκευάσει.] in bad sense, 'to misrepresent,' 'trump up a story,' 'make out falsely.' Cf. Or. 45 § 82. παρασκευάσειν the reading of the Paris ms depends, like the previous infinitives, on the remote verb πέπυσμαι.

15. χαλεπῶς — ἐννοχῶς.] 'deeply indignant as I am at the wrongs I have suffered.' Or. 58 § 55 πρῶτος ἐπὶ τοῖς γιγνομένοις φέρειν.

τοῦτ' ἀγανακτήσασμαι ἢ.] Or. 8 § 55, ἀγανακτῶ αὐτὸ τοῦτο, εἰ τὰ μὲν χρήματα λυπεῖ τις ἡμῶν εἰ διαρπασθήσεται (W). ἀγανάκτειν and similar verbs implying mental emotion, though occasionally followed by a dative

with or without ἐπὶ, may have an accusative neuter pronoun (Kühner, *Gk. Gr.* § 410 c. 5). τοῦτο is explained by εἰ ἀληθὴ δόξει οὐτοσί λέγειν, 'deeply indignant as I am at the wrongs I have suffered, I should (if you will pardon the expression) feel no less resentment at this, and should deem myself the victim of a fresh outrage at your hands, if Conon shall be held by you to be speaking the truth about us...' εἰ οἶόν τ' εἰπεῖν must be understood as a parenthetical apology for using the strong word ὑβρισθῆναι to express the outrage that will be done to the feelings of honest men like the plaintiff, if the defendant's bare assertion is believed outright, and if no weight is given to the unimpeachable testimony presented on the other hand by the exemplary lives of himself and his brothers. Cf. esp. § 43 εἰ προσυβριθεὶς ἀπειμὶ καὶ δίκης μὴ τυχών.

αὐτὸν αἰτιάσθεται] so. εἶναι, 'that, whatever sort of person each one shall assert that he is, or his neighbour shall accuse him of being, such he shall be considered to be, and respectable citizens shall have no advantage at all from their daily life or conduct.'



- 16 μετρίοις ὄφελος. ἡμεῖς γὰρ οὔτε παροινούντες οὐδ' ὑβρίζοντες ἰπ' οὐδενὸς ἀνθρώπων ἐωράμεθα, οὐτ' ἀγνωμον οὐδὲν ἡγούμεθα ποιεῖν, εἰ περὶ ὧν ἡδικήμεθ' ἀξιούμεν κατὰ τοὺς νόμους δίκην λαβεῖν. ἰθυφάλλοις δὲ καὶ αὐτοληκείοις συγχωροῦμεν εἶναι τοῖς νίεσι τοῖς τούτου, καὶ ἔγωγ' εὐχομαι τοῖς θεοῖς εἰς Κόνωνα καὶ τοὺς νιεῖς τοὺς τούτου καὶ ταῦτα καὶ τὰ τοιαῦτα ἅπαντα
- 17 τρέπεσθαι. οὗτοι γάρ εἰσιν οἱ τελούντες ἀλλήλους τῷ

§§ 16—17. *As to our own character, no one has ever seen us playing drunken pranks on other people, and we cannot see how our opponents can call us 'hard' on others, if we claim redress. Conon's sons are welcome to belong to their disorderly clubs, but I shall be surprised if this or any similar plea will enable them to escape with impunity.*

16. οὔτε παροινούντες οὐδ' ὑβρίζοντες... οὐτ' ἀγνωμον κ.τ.λ.] This refers to § 14, παροίνους... καὶ ὑβριστὰς... ἀγνώμονας δὲ καὶ πικρούς. The mss have οὐθ' ὑβρίζοντες, which Baiter (followed by Dindorf and Westermann) alters into οὐδ' ὑβρίζοντες. It would be better perhaps to leave οὐθ' ὑβρίζοντες, and to alter οὐτ' into οὐδ' before ἀγνωμον. The break between the second clause and the first is clearly greater than between the two parts of the first (viz. παροινούντες and ὑβρίζοντες).

ἐωράμεθα.] This form of the perf. of ὀράν (for the older Attic ὀρμαι, the 2nd and 3rd sing. of which occur in Dem.) is also found in Isocr. de permutatione § 110, μηδ' ὑφ' ἐνὸς ἐωράσθαι, possibly the earliest extant instance (de perm. belongs to B. C. 355; κατὰ Κόωνος to B. C. 355 or 341).

συγχωροῦμεν κ.τ.λ.] They are welcome, so far as we are concerned, to the attributes of Priapi and Sileni. For the dat. cf. § 44, πονηροτέροις ἡμῶν εἶναι συνέβαιεν.

εἰς Κόνωνα... τρέπεσθαι.] Passive. 'recoil upon the head of Conon.' Ar. Ach. 833, πολυπραγμοσύνη νυν εἰς κεφαλὴν τρέποικ' ἐμοί. (Dem.) Epist. 4 § 10, οἱ θεοὶ... τὴν ἀδικον βλασφημῶν εἰς κεφαλὴν τῷ λέγοντι τρέπουσι.

οἱ τελούντες κ.τ.λ.] 'who initiate one another with Priapic rites.'—πολλὴν ἀσχύνην ἔχει, 'involve deep disgrace even to speak of.'—μὴ εἴ τι γε, *nedum*. Cf. Plato, Phaedr. 240 D, Crat. 427 E, and see note on Or. 34 § 14.

§§ 17 cont.—20. Compare the spirit of our laws with the course which Conon proposes to take. The laws, I understand, affix a penalty even to minor offences, to preclude the perpetration of graver crimes, to prevent men for instance being gradually led from wrangling to blows, from blows to wounding, from wounding to murder. Conon, on the contrary, will make light of the whole affair and will raise a laugh to get himself acquitted. Why! none of you would have laughed had you seen me when

ἰθυφάλλω, καὶ τοιαῦτα<sup>p</sup> ποιοῦντες ἃ πολλὴν αἰσχύνῃ  
ἔχει καὶ λέγειν, μὴ ὅτι γε δὴ ποιεῖν ἀνθρώπους μετρί-  
ους. ἀλλὰ τί ταῦτ' ἐμοί; θαυμάζω γὰρ ἔγωγε, εἴ τίς  
ἐστί πρόφασις παρ' ὑμῖν ἢ σκῆψις εὐρημένη δι' ἣν, ἂν  
ὑβρίζων τις ἐξελέγχηται καὶ τύπτων, δίκην οὐ δώσει.  
οἱ μὲν γὰρ νόμοι πολὺ τάναντία καὶ τὰς ἀναγκαίας  
προφάσεις, ὅπως μὴ μείζους γίνωνται, προείδοντο,  
οἶον (ἀνάγκη γάρ μοι ταῦτα καὶ ζητεῖν καὶ πυνθάνε-

<sup>p</sup> Bekker.

τὰ τοιαῦτα Z cum Z.

*I was being brutally maltreated, and when I was carried helpless to my home.*

17. θαυμάζω γάρ.] The English idiom requires us to leave γάρ untranslated, or else to render it by the exclamation 'why!' — 'What has all this to do with me? Why! for my part, I am surprised if in *your* court they have discovered a plea or pretext, thanks to which a man, if convicted of outrage and assault, shall escape punishment.'

οἱ μὲν γὰρ νόμοι κ.τ.λ.] The influence of μὲν extends over the whole of the two following sections, it is then caught up and reiterated in the clause εἴτ' ἐν μὲν τοῖς νόμοις οὕτως. Thus the first μὲν has no δέ corresponding to it, until we reach the words δὲ δ' εἶπε Κόνων. 'The laws say so and so...' 'Not so Conon.'

τὰς ἀναγκαίας προφάσεις κ.τ.λ.] i. e. προείδοντο ὅπως μὴ αἱ ἀναγκαῖαι προφάσεις μείζους γίνωνται. Thus, to use the illustration supplied below by Demosthenes himself, abusive language is a πρόφασις for dealing blows; blows again are a πρόφασις for inflicting wounds; lastly wounding, for homicide. The laws, by ordaining a legal remedy at each stage, (1) de-

famation, (2) assault, (3) unlawful wounding, interpose to prevent defamation, which is a pretext for assault, growing into actual assault; similarly assault developing into unlawful wounding, and ultimately into homicide.

'The laws on *their* part have, on the very contrary, made provision, even in the case of pleas of necessity, against the development of those pleas into greater proportions.' [The meaning is, that the law, by providing an action for every kind of insult, has made it unnecessary for the aggrieved to resort to extremes in avenging himself. By ἀναγκαῖα πρόφασις he means, for instance, the plea, that a man was insulted and he was *obliged* to resent it. The law says, 'that obligation must not be pressed too far, so as to justify you in taking very violent revenge.' P.]

ἀνάγκη γάρ... γέγονεν.] The plaintiff, a quiet, common-place soldier, is here on the verge of displaying a familiarity with legal technicalities which would be not only out of keeping with his ordinary character, but would be resented by those of the jury who happened to be less versed in legal learning. The

18 σθαι διὰ τοῦτον γέγονεν) εἰς κακῆγορίας δίκαι· φασὶ τοῖνυν ταύτας διὰ τοῦτο γίνεσθαι, ἵνα μὴ λοιδοροῦμενοι τύπτειν ἀλλήλους προάγῃνται. πάλιν αἰκίας εἰσὶν καὶ ταύτας ἀκούω διὰ τοῦτ' εἶναι τὰς δίκας, ἵνα μηδεῖς, ὅταν ἦττων ᾖ, λίθῃ μηδὲ τῶν τοιούτων ἀμύνηται μηδενί, ἀλλὰ τὴν ἐκ τοῦ νόμου δίκην ἀναμένῃ. τραύματος πάλιν εἰς γραφαὶ τοῦ μὴ τιτρωσκομένων

court would be apt to ascribe his acquaintance with the details of the law of defamation, assault, and homicide to that over-litigiousness of character which was as unpopular as it was common, at Athens; or, at the very least, they would put him down as a pedant. Hence Demosthenes introduces a passing apology, explaining that the plaintiff, honest man, owes all his legal lore to the enquiries rendered imperative by the maltreatment he had received from the defendant. Hence, too, the skilful disclaimer of superior knowledge involved in the subsequent phrases: φασί... γίνεσθαι and ἀκούω... εἶναι.

κακῆγορίας δίκαι.] ISOCR. κατὰ Λοχίτου (an αἰκίας δίκη like the present case), § 8 (οἱ θέντες ἡμῶν τοὺς νόμους) οὕτω... ἡγήσαντο δεινὸν εἶναι τὸ τύπτειν ἀλλήλους, ὥστε καὶ περὶ κακῆγορίας νόμον ἔθεσαν, ὅς κελεύει τοὺς λέγοντάς τι τῶν ἀπορρήτων πεντακοσίας δραχμὰς ὀφείλειν. Cf. Lysias, Or. 10 §§ 6—12, Dem. Or. 23 § 50, Or. 21 § 82.

18. λοιδοροῦμενοι.] 'reviling one another.' For the reciprocal sense, cf. Or. 54 § 40, ἐχθροὺς ἀλλήλοις ... λοιδοροῦμενοι καὶ πλύνοντας αὐτοὺς τὰ πόρρητα, and Ar. Ranæ 857, πρῶνως ἐλεγχ' ἐλέγχου, λοιδορεῖσθαι δ' οὐ θέμις ἀνὰ ποιητὰς ὥσπερ ἀρτοποι-λίδας.

As λοιδορεῖσθαι is used in the sense of κακῶς ἀγορεύειν ἀλλήλους, so also λοιδορία sometimes occurs as an equivalent for the precise technical term κακῆγορία. Hence we have in Ar. Vesp. 1207 εἰλον διώκων λοιδορίας (so. κακῆγορίας) and Athenæus (xii. 525 B.) quotes from Antiphon ἐν τῷ κατ' Ἀλκιβιάδου λοιδορίας, possibly meaning a speech in a δίκη κακῆγορίας.

αἰκίας] so. δίκαι, of which the present case is an instance.

For the general sense of the following sentences, cf. Isocr. κατὰ Λοχίτου Or. 20 § 8 πολλὰς καὶ μικρὰς προφάσεις μεγάλων κακῶν αἰτίαι γέγονασι, καὶ... διὰ τοὺς τύπτειν τολμῶντας εἰς τοῦτ' ἥδη τινὲς ὀργῆς προήχθησαν ὥστ' εἰς τραύματα καὶ θανάτους καὶ φυγὰς καὶ τὰς μεγίστας συμφορὰς ἐλθεῖν.

ἵνα μηδεῖς—μηδενί.] 'to prevent anyone, when he is the weaker party, defending himself with a stone or any similar missile,' e.g. an ὄστρακον, Lysias Or. 4 § 6. See Mahaffy's *Social Greece* p. 358—360.

τραύματος... γραφαί.] (Lysias) Or. 6 κατ' Ἀνδοκίδου § 15 ἂν τις ἀνδρὸς σῶμα τρώσῃ, κεφαλὴν ἢ πρόσωπον ἢ χεῖρας ἢ πόδας, αὐτὸς κατὰ τοὺς νόμους τοὺς ἐξ Ἀρείου πάγου φεύγεται τὴν ἀδικηθέντος πόδιν, καὶ ἐὰν κατ' ἐνδειχθεῖς θανάτῳ ζημωθῇσεται.

The fourth oration of Lysias

- 19 τινῶν φόνους γίγνεσθαι. τὸ φαυλότατον, οἶμαι, τὸ τῆς λοιδορίας, πρὸ τοῦ τελευταίου καὶ δεινοτάτου προεάραται, τοῦ μὴ φόνον γίγνεσθαι μηδὲ κατὰ μικρὸν ὑπάγεσθαι ἐκ μὲν λοιδορίας εἰς πληγὰς, ἐκ δὲ πληγῶν 1263 εἰς τραύματα, ἐκ δὲ τραυμάτων εἰς θάνατον, ἀλλ' ἐν τοῖς νόμοις εἶναι τούτων ἐκάστου τὴν δίκην, μὴ τῇ τοῦ προστυχόντος ὀργῇ μηδὲ βουλήσει ταῦτα κρίνεσθαι.
- 20 εἰτ' ἐν μὲν τοῖς νόμοις οὕτως· ἂν δ' εἴπη Κόνων "ἰθύ-  
" φαλλοὶ τινὲς ἐσμεν ἡμεῖς συνειλεγμένοι, καὶ ἐρώντες  
" οὓς ἂν ἡμῖν δόξῃ παίομεν καὶ ἄγχομεν," εἰτα γελά-  
σαντες ὑμεῖς ἀφήσετε; οὐκ οἶμαι<sup>a</sup> γε. οὐ γὰρ ἂν

<sup>a</sup> οἶμαι Z.

is a very brief defence in a case of 'malicious wounding,' *περὶ τραύματος ἐκ πρηνίας*. The defendant endeavours to prove the absence of *πρηνία* ('or malice prepense'), and implores the *βουλὴ* (ἡ ἐξ Ἀρεῶν πύργου) to rescue him from banishment (§§ 6, 12, 20). In Aeschin. Ctesiph. § 51 a *τραύματος γραφὴ* instituted by Demosthenes himself is mentioned; and the latter orator (Aristocr. § 24) quotes the law *τὴν βουλήν δικάζειν φόνον καὶ τραύματος ἐκ πρηνίας* κ.τ.λ.

τοῦ μὴ...φόνους γίγνεσθαι.] One MS (*Augustanus primus*, cent. XII.) has τῷ μὴ, but the genitive is supported by stronger authority. The *genitive* of a clause containing an accusative of the subject and an infinitive is often used (especially with *μὴ*) to denote the *object* or *motive*; the *dative*, the *means* and *instrument* or *cause* (*Madvig's Greek Syntax*, § 170, and the commentators on Thuc. II. 102; VI. 33; VIII. 87. 3.)

19. τὸ τῆς λοιδορίας κ.τ.λ.] 'the least of these evils, *namely*,

*abusive language*, has been provided for by the laws, for the avoidance of (πρὸ) &c.'—*προεάραται*, which may have either a middle or a passive sense, has here almost certainly the latter, especially as we have just had *ἐωράμεθα* as a *passive* in § 16. *προεώραμαι* occurs as *passive* in Arist. Met. II. 1, and *προεωράσθαι* as *middle* in Diod. Sic. XX. 102. Westermann here supplies ὁ νόμος, and thus takes it as a *middle*; but Dem. in the present passage and its context appears to prefer the plural *οἱ νόμοι*, though ἐκ τοῦ νόμου occurs four lines back.

20. ἐν μὲν τοῖς νόμοις] reiterates *οἱ μὲν γὰρ νόμοι* in § 17. *ἰθύφαλλοι—ἀγχομεν.*] 'we belong to the Priapus-club (§ 34, *ἐπειδὴν συλλεγώσι*) and in our love-affairs (§ 14) strike and throttle whom we choose.'

εἰτα.] an indignant exclamation. — γελάσαντες ... ἀφήσετε. Cf. Or. 23 § 206, ἂν ἐν ἡ δὲ δόσεια εἴπωσι...ἀφίετε. Horace, Sat. II. 1. 86, *solventur risu tabulae; tu missus abibis*.

γέλως ὑμῶν ἔλαβεν οὐδένα, εἰ παρὼν ἐτύγγαυεν, ἥνικα εἰλκόμεν καὶ ἐξεδνόμεν καὶ ὑβρίζόμεν, καὶ ὑγιῆς ἐλθὼν φοράδην ἤλθον οἴκαδε, ἐξεπεπηδῆκει δὲ μετὰ ταύθ' ἡ μήτηρ, καὶ κραυγὴ καὶ βοή τῶν γυναικῶν τοσαύτη παρ' ἡμῖν ἦν ὥσπερανεὶ τεθνεώτος τινος, ὥστε τῶν γειτόνων τινὰς πέμψαι πρὸς ἡμᾶς ἐρησομέ-  
 21 νους ὃ τι ἐστὶ τὸ συμβεβηκός. ὅλως δ', ὦ ἄνδρες δικασταί, δίκαιον μὲν οὐδενὶ δῆπου σκῆψιν οὐδεμίαν τοιαύτην οὐδὲ ἀδειαν ὑπάρχειν παρ' ὑμῶν<sup>α</sup> δι' ἣν ὑβρίξειν ἐξέσται· εἰ δ' ἄρ' ἐστὶ τῷ, τοῖς δι' ἡλικίαν τούτων τι πράττουσι, τούτοις ἀποκεῖσθαι προσήκει τὰς τοιαύτας καταφυγὰς, κακείνοισ' οὐκ εἰς τὸ μὴ δοῦναι δίκην,  
<sup>α</sup> Bekker (st. Leipsig ed.). ὑμῶν Bekk. (Berlin ed.) <sup>γ</sup> καὶ ἐκείνοισ' Z.

[ἐλκόμεν—οἴκαδε.] The rhetorician Aristides (Spengel, *Rhet. Graeci* II. 495) quotes this sentence to exemplify σφοδρότης, or vehemence of style. On ἐξεπεπηδῆκει he remarks, οὐκ εἶπεν ἐξηλύθει, ἀλλὰ ἐμφαντικώτερον τῇ ὀνομασίᾳ, ἐξεπεπηδῆκει ἡ μήτηρ· ἐν γὰρ τῷ ὀνόματι ἡ ἐμφασίς.

[φοράδην.] ὁ φερόμενος βασταγμῷ (a litter). Hesychius.

[τεθνεώτος.] The compound tenses ἀποθνήσκω, ἀποθανοῦμαι, ἀπέθανον (which are frequent in Attic prose and comedy, but are not used in tragedy) have no corresponding perfect, but take instead the simple forms τεθνήκα, τεθνήκαμι, τεθνεώς. ἀποτεθνεώς and the like are never found in Attic verse or prose. (Cobet, *nov. lect.* 29 and Veitch, *Greek verbs.*) Cf. Plato, *Phaedo* 64 A, ἀποθνήσκον τε καὶ τεθνάναι, and 71 C, ἐκ τῶν τεθνεώτων, followed in the very next line by ἐκ τῶν ἀποθανόντων.

§§ 21—23. It is only those who are misled by their youth into acts of outrage that deserve any

indulgence, and even in their case, such indulgence ought not to get them off altogether, but should extend simply to mitigation of their penalty. But Conon is more than fifty years of age, and therefore inexcusable; and yet, instead of stopping younger men, and those his sons, from doing wrong, he was the ring-leader of them all.

Even the penalty of death would be too small for his crimes, for the conduct of his sons in their father's presence proves that he himself had no reverence for his own father.

21. δίκαιον μὲν.] The rule of strict justice, stated broadly (ὅλως, 'speaking generally'), as contrasted with the concessions granted in special cases on the principles of equity (or ἐπιείκεια) implied in the next sentence.

τούτοις] repeats the previous dative τοῖς...πράττουσι ('to these, I say'), and is itself emphatically reiterated in the subsequent κακείνοις, referring pointedly to the plaintiff's opponents.

els.] 'to the extent of.' For

- 22 ἄλλ' εἰς τὸ τῆς προσηκούσης ἐλάττω. ἔστις δ' ἐτῶν  
 μὲν ἔστι πλειόνων ἢ πεντήκοντα, παρὼν δὲ νεωτέροις  
 ἀνθρώποις καὶ τούτοις υἱέσιν οὐκ ὕπως ἀπέτρεψεν  
 ἢ διεκώλυσεν, ἀλλ' αὐτὸς ἡγεμὼν καὶ πρῶτος καὶ  
 πάντων βδελυρώτατος γεγένηται, τίν' ἂν οὗτος ἀξίαν  
 τῶν πεπραγμένων ὑπόσχοι δίκην; ἐγὼ μὲν γὰρ οὐδ'  
 ἀποθανόντα οἶμαι. καὶ γὰρ εἰ μηδὲν αὐτὸς εἵργαστο  
 τῶν πεπραγμένων, ἀλλ' εἰ παρεστηκότος τούτου Κτη- 1264  
 σίας ὁ υἱὸς ὁ τούτου ταῦθ' ἄπερ<sup>π</sup> νυνὶ πεποιηκὼς ἐφαί-  
 23 νετο, τοῦτον ἐμισεῖτ' ἂν δικαίως. εἰ γὰρ οὕτω τοὺς  
 ἑαυτοῦ προῆκται παῖδας ὥστ' ἐναντίον ἐξαμαρτάνον-  
 τας ἑαυτοῦ, καὶ ταῦτα ἐφ' ὧν ἐνόις θάνατος ἢ ζημία  
 κείται, μήτε φοβεῖσθαι μήτ' αἰσχύνεσθαι, τί τοῦτον  
 οὐκ ἂν εἰκότως παθεῖν οἴεσθε; ἐγὼ μὲν γὰρ ἡγούμαι

<sup>π</sup> Bekker (st. Leipsig ed.). + οὗτος Bekk. (Berlin).

this sense, see my note on Eur.  
*El.* 1072. P.]

22. παρὼν δὲ — γεγένηται.]  
 Cf. § 6 ad fin.

τίν' ἂν—δίκην;] i.e. 'Is there  
 any punishment to which he  
 could submit, that would be  
 adequate to his crimes?'—On  
 ἀποθανόντα, cf. note on § 20,  
 τεθνεώτος.—With οἶμαι we under-  
 stand ἀξίαν ἂν τῶν πεπραγμένων  
 ὑποσχεῖν δίκην.—ἄπερ νυνί, so.  
 πεποιηκὼς φαίνεται.

τοῦτον ἐμισεῖτ' ἂν δικαίως.]  
 'even then you would have ab-  
 horred the defendant, and  
 rightly too!' or (with Kennedy)  
 'even then he would have de-  
 served your execration.'

23. προῆκται.] Perfect passive  
 with middle sense 'has had  
 them brought up' (Liddell and  
 Scott), or simply 'has trained  
 them,' (gezogen hat). This ex-  
 planation is due to Reiske, and  
 is probably right. But the  
 general sense of προάγω, 'to  
 lead on by little and little'

(§ 18, προάγωνται), may perhaps  
 warrant our understanding it of  
 Conon's permitting his sons to be  
 constantly taking liberties, and  
 going step by step from bad to  
 worse. προῆκται, may in the  
 latter case be rendered 'has  
 spoilt' (*verzogen hat*, West-  
 ermann and G. H. Schaefler), but  
 the two meanings are almost  
 identical, and the general sense  
 the same.

καὶ ταῦτα ἐφ' ὧν—κείται.] 'and  
 that too in the case of acts, for  
 some of which the penalty or-  
 dained is death' (referring to  
 laws against ὕβρις and περὶ τῶν  
 λωποδυτῶν, cf. § 1 ad fin.). ἐφ'  
 ὧν ἐνόις stands for ἐπὶ τούτων  
 ὧν ἐνόις [or, perhaps, καὶ ταῦτα  
 (ἐξαμαρτάνοντας) ἐφ' ὧν ἐνόις. P.]  
 τοῦτον.] Conon; ἐκείνου his  
 father (who was probably dead,  
 as we may take αἰσχύνεσθαι as  
 an imperfect imperative); τούτους  
 his sons.—The construction of  
 the last clause is ἡξίου ἂν καὶ  
 τούτους (τιμᾶν καὶ δεδιέναι) αὐτόν.

ταῦτ' εἶναι σημεῖα τοῦ μηδὲ τοῦτον τὸν ἑαυτοῦ πατέρα αἰσχύνεσθαι· εἰ γὰρ ἐκείνον αὐτὸς ἐτίμα καὶ ἐδεδίει, καὶν τούτους αὐτὸν ἤξιον.

- <sup>24</sup> Λαβὲ δὴ μοι καὶ τοὺς νόμους, τὸν τε<sup>2</sup> τῆς ὕβρεως καὶ τὸν περὶ τῶν λωποδυτῶν καὶ γὰρ τούτοις ἀμφοτέροις ἐνόχους τούτους ὄψεσθε. λέγε.

### NOMOI.

- Τούτοις τοῖς νόμοις ἀμφοτέροις ἐκ τῶν πεπραγμένων ἔνοχος Κόνων ἐστὶν οὐτοσί· καὶ γὰρ ὕβριζε καὶ ἐλωποδύτει. εἰ δὲ μὴ κατὰ τούτους προειλόμεθ' ἡμεῖς δίκην λαμβάνειν, ἡμεῖς μὲν ἀπράγμονες καὶ μέτριοι φαινοίμεθ' ἂν εἰκότως, οὗτος δ' ὁμοίως πονηρός.
- <sup>25</sup> καὶ μὴν εἰ παθεῖν τί μοι συνέβη, φόνου καὶ τῶν δεινο-

<sup>2</sup> τοὺς νόμους τοὺς τῆς ὕβρεως Bekker (Berlin ed.). τοὺς νόμους τῆς ὕβρεως Zi et Bekker (st. Leipsig ed.) cum ΣΦ.

§§ 24, 25. *Take and read the statutes on brutal outrage and on highway robbery, to both of which the defendant is amenable, though I have declined to claim redress under these statutes. Further, had death ensued, he would have been chargeable with murder.*

24. τὸν τε τῆς ὕβρεως.] Or. 21 (Meid.) § 46, where a document is given, purporting to be the law in question.

τὸν περὶ τῶν λωποδυτῶν.] The periphrasis is due to the fact that the crime has no name specially appropriated to it in Attic Greek of the best age (λωποδυσία is found only in a glossary, and λωποδυσίου δίκη in the rhetorician Hermogenes, fl. A.D. 170). Cf. § 1, where λωποδυτῶν ἀπαγωγή is parallel to ὕβρεως γραφαί. See Mayor's note on Cicero, *Phil.* II. § 8.

ἀπράγμονες καὶ μέτριοι.] 'Quiet

and inoffensive,' Or. 42 § 12 μετρίον καὶ ἀπράγμονος πολίτου μὴ εὐθὺς ἐπὶ κεφαλῇν εἰς τὸ δικαστήριον βαδίζειν. Cf. Or. 86 § 53.

25. εἰ παθεῖν τί μοι συνέβη.] a common euphemism for death. Or. 23 (Aristocr.) § 59, ἂν ἄρα συμβῇ τί παθεῖν ἐκείνῳ. A frequent formula at the beginning of a Greek will was: *ἔσται μὲν εὖ, ἐὰν δέ τι συμβαῖν, τὰδε διατίθεμαι* (Diog. Laert. v. II. 51). Cf. Cicero, *Phil.* I. § 10, *et quid mihi humanitus accideret*, and Sheridan's *Rivals*, v. 3 (just before a duel), Sir Lucius O'Trigger: 'But tell me now, Mr Acres, in case of an accident, is there any little will or commission I could execute for you.' Acres: 'I am much obliged to you, Sir Lucius—but I don't understand.' Sir Lucius:.... 'If an unlucky bullet should carry a quietus with it, etc.'

τάτων ἂν ᾗν ὑπόδικος. τὸν γοῦν τῆς Βραυρωνόθεν  
 ιερείας πατέρα ὁμολογουμένως οὐχ ἀψάμενον τοῦ τε-  
 λευτήσαντος, ὅτι τῷ πατάξαντι τύπτειν παρεκελεύ-  
 σατο, ἐξέβαλεν ἢ βουλὴ ἢ ἐξ Ἀρείου πάγου. δικαίως  
 εἰ γὰρ οἱ παρόντες ἀντὶ τοῦ κωλύειν τοὺς ἢ δι' οἶνον  
 ἢ δι' ὀργὴν ἢ τιν' ἄλλην αἰτίαν ἐξαμαρτάνειν ἐπι-  
 χειροῦντας αὐτοὶ παροξυνοῦσιν, οὐδεμί' ἐστὶν ἐλπίς  
 σωτηρίας τῷ περιπίπτοντι τοῖς ἀσελγαίνουσιν, ἀλλ'  
 ἕως ἂν ἀπέιπωσιν, ὑβρίζεσθαι ὑπάρξει' ὅπερ ἐμοὶ  
 συνέβη.

26 Ἄ τοῖνυν, ὅθ' ἢ δίαίτα ἐγένετο, ἐποιοῦν, βούλο- 1265

γούν.] 'for instance,' or, 'at any rate,' one person *was* con-  
 demned for such an offence.  
 Tr. 'the father of the priestess at Brauron, though he confess-  
 edly had not laid a finger on the deceased, and merely because  
 he encouraged the assailant to hit him again, was outlawed by  
 the court of the Areopagus.' P.]

τῆς Βραυρωνόθεν ιερείας.] Priest-  
 ess of Artemis, who was specially  
 worshipped at Brauron, the  
 ancient deme near the western  
 coast of Attica, where Orestes  
 and Iphigenia are said to have  
 landed with the statue of the  
 Tauriangoddess. Wordsworth's  
*Athens and Attica* c. xxviii.  
 'The daughter of Agamemnon  
 was brought here, as the legend  
 related [*Iph. T.* 1461], from the  
 gloomy regions of the Tauric  
 Chersonesus, and placed as a  
 priestess of Diana's temple in  
 this cheerful valley, where she  
 was said to have lived and died;  
 and where her supposed tomb  
 was shown in after ages.' The  
 principal ceremony in the  
 Brauronia, held every five years,  
 was the rite performed by the  
 young girls of Attica, dressed  
 in saffron-coloured attire, who

played as bears in honour of  
 the goddess. Ar. *Lys.* 645 κατ'  
 ἔχουσα τὸν κροκωτὸν ἀρκτος ἢ  
 Βραυρωνίους. Leake's *Athens* II.  
 72, and Dict. Ant. s. v. *Brauro-  
 nia*.

πατάξαντι τύπτειν.] See *Excursus*  
 (A) at the end of this speech.  
 ἐξέβαλεν.] 'banished,' not 'ex-  
 pelled from the Council of the  
 Areopagus.' The latter is Wes-  
 termann's view, but in this case  
 we should surely have had  
 ἐξέβαλεν ἢ βουλῇ ἐξ Ἀρείου  
 πάγου. (Cf. A. Schaefer, *Dem.*  
*u. s.* Zeit III. 2, 114 n.)

Ἀρείου πάγου.] The form  
 Ἀρειόπαγος is apparently only  
 found in late inscriptions. (See  
 note on Isocr. *Paneg.* § 78 καλοῖς  
 καγαθοῖς).

ἕως ἂν ἀπέιπωσιν.] 'till they  
 are tired,' so. οἱ ἀσελγαίνοντες.  
 Cf. § 27, ἐπειδὴ δ' οὖν ποτ'  
 ἀπέειπον. Reiske (*index Graec.*)  
 is clearly wrong in his rendering  
*deliquerint animis sub verberibus*:  
 had the clause referred to the  
 victim, the singular would  
 have been used, to correspond  
 to τῷ περιπίπτοντι.

§§ 26—29. At the arbitra-  
 tion my opponents, by wasting  
 time and introducing irrelevant



μαι πρὸς ὑμᾶς εἰπεῖν καὶ γὰρ ἐκ τούτων τὴν ἀσέλ-  
γειαν θεάσεσθε αὐτῶν. ἐποίησαν μὲν γὰρ ἔξω μέσων  
νυκτῶν τὴν ὥραν, οὔτε τὰς μαρτυρίας ἀναγινώσκειν  
ἐθέλοντες οὔτε ἀντίγραφα διδόναι, τῶν τε παρόντων  
ἡμῖν καθ' ἓνα οὕτωςι πρὸς τὸν λίθον ἄγοντες καὶ ἐξ-

\* βωμόν Z cum libris.

matters, protracted the proceed-  
ings beyond midnight, to the  
disgust of all the bystanders,  
and at last even of themselves.  
They then, with an evasive  
object, put in a challenge, offer-  
ing to surrender certain slaves  
to be examined by torture as to  
the assault, and they will make  
much of this challenge. But  
had it been a bona fide offer, it  
would have been made not at the  
last moment, but long before.

ἡ δαῖτα.] Civil actions at  
Athens, before being brought  
into court, were almost invari-  
ably referred to arbitration.  
The Arbitrators (διαίτηται) were  
either public and appointed by  
lot (κληρωτοί), or private and  
chosen (αἰρετοί) by the parties to  
the impending suit. In cases  
brought before a public arbitra-  
tor the parties might appeal to  
a higher Court; whereas the de-  
cision of a private arbitrator  
was final. See esp. Or. 21  
(Meid.) § 94 τὸν τῶν διαιτῶν νόμον.  
The δαῖτα here described was  
of the former kind. (See further  
Diet. Antiq. s. v. δαῖτα and  
Excursus to Kennedy's Demosth.  
Leptines &c. p. 395—403.)

ἐποίησαν—ὥραν.] 'They pro-  
longed the time beyond mid-  
night.' For the plural νύκτες  
in the sense *nocturna tempora*  
cf. Plato *Phileb.* 50 D νῦν οὖν  
λέγε πότερα ἀφίης με ἢ μέσας  
ποιήσεις νύκτας, *Protag.* 310 C,  
and *Symp.* 217 D πόρρω τῶν

νυκτῶν. Ar. Nub. 1, τὸ χρῆμα  
τῶν νυκτῶν ὅσον.

οὔτε—διδόναι.] 'by refusing to  
read aloud the depositions or to  
put in copies of the same.' The  
depositions were indispensable,  
and the defendants' refusal  
would obviously protract the  
proceedings, and lead to lengthy  
debates between the Arbitrator  
and the parties to the suit.—  
τῶν παρόντων sc. μαρτύρων.—  
καθ' ἓνα = ἕκαστον, 'one by  
one,' *singillatim*. Or. 9 § 22,  
καθ' ἓν οὕτωςι περικόπτειν καὶ  
λωποδυνεῖν τῶν Ἑλλήνων (Butt-  
mann's *index* to *Midias* s.v.  
κατά).

οὕτωςι.] 'merely,' *sic temere*,  
Homer's αἶθω, or μὰς οὕτως,  
'just bringing our witnesses up  
to the altar and putting them  
on their oath and nothing  
more,' without allowing them  
to proceed with their depo-  
sitions.

λίθον.] The mss have βω-  
μόν, retained by the Zurich  
editors (Baiter and Sauppe),  
but altered into λίθον by Din-  
dorf and Westermann, on the  
authority of Harpocration, who  
has the following article: λίθος·  
Δημοσθένης ἐν τῷ κατὰ Κόνωνος  
'τῶν τε παρόντων καθ' ἓνα ἡμῖν  
οὕτωςι καὶ πρὸς τὸν λίθον ἄγον-  
τες καὶ ἐξορκίζοντες (sic)' εὐλοκᾷ  
δ' Ἀθηναῖοι πρὸς τινὶ λίθῳ τοὺς  
ὅρκους ποιεῖσθαι ὡς Ἀριστοτέλης  
ἐν τῇ Ἀθηναίων πολιτείᾳ καὶ  
Φιλόχορος ἐν τῷ γ' ὑποσημαίνουσι.

ορκίζοντες, καὶ γράφοντες μαρτυρίας οὐδὲν πρὸς τὸ πρᾶγμα, ἀλλ' ἐξ ἐταίρας εἶναι παῖδιον αὐτῷ τοῦτο καὶ πεπονθέναι τὰ καὶ τὰ, ἃ μὰ τοὺς θεοὺς, ὧ ἄνδρες δικασταί, οὐδεὶς ὅστις οὐκ ἐπέτιμα τῶν παρόντων καὶ ἐμί-  
 27 σεις, τελευτῶντες δὲ καὶ αὐτοὶ οὗτοι ἑαυτούς. ἐπειδὴ δ' οὖν ποτ' ἀπείπον καὶ ἐνεπλήσθησαν ταῦτα ποιοῦν-  
 τες, προκαλοῦνται ἐπὶ διακρούσει καὶ τῷ μὴ σημαν-  
 θῆναι τοὺς ἐχίνους ἐθέλειν ἐκδοῦναι περὶ τῶν πληγῶν  
 παῖδας, ὀνόματα γράψαντες. καὶ νῦν οἶμαι<sup>α</sup> περὶ τοῦτ'

<sup>α</sup> οἶμαι Z.

So Hesychius, λίθος· βῶλος, βωμὸς καὶ βῆσις. Plutarch, Solon 25, ἄμυνεν ὅρκον ἑκαστος τῶν θεσμοθετῶν ἐν ἀγορᾷ πρὸς τῷ λίθῳ.

The word βωμὸν was perhaps originally an interlinear or marginal explanation of λίθον, and subsequently thrust the right word from the text.

The διαίτηται might hold their arbitration in any temples, halls or courts available, e. g. in the temple of Hephaestus as in Isocr. *Trapez.* § 15, ἐλθόμενοι δὲ βασανιστὰς ἀπητήσαμεν εἰς τὸ Ἡφαιστεῖον. Similarly in Or. 36 § 16 we have seen the temple of Athene on the Acropolis mentioned as the scene of an arbitration. In any case an altar for the administration of oaths would be readily at hand, and it is unnecessary to suppose that in the present passage any special public altar is intended.

ἐξορκίζοντες] Also used in Aeschin. *fals. leg.* § 85, ἐξώρκισεν τοὺς συμμάχους, in the same sense as the more common ἐξορκοῦν (for which see Or. 45 § 58).

οὐδὲν πρὸς τὸ πρᾶγμα] so. οὐδας, 'utterly irrelevant.'—τοῦτο, so. Ctesias. They brought

all sorts of irrelevant depositions, one of which was that Conon's son was illegitimate [and therefore Conon was not legally responsible for his actions; further that he, Ctesias, has undergone certain ill treatment which justified the outrage he committed on Ariston. P.]

δ.] The antecedent is not τὰ καὶ τὰ, but the general sense of the whole of the preceding clauses; 'a course of conduct which, &c.'

τελευτῶντες—ἑαυτούς.] so. ἐπετιμῶν καὶ ἐμίσουν, 'at last they were indignant at and disgusted with themselves.' The speaker feeling that, by implying that his opponents had had the sense to desist, he has made too much of a concession to them, hurries over his admission, and in the next sentence cuts the matter short by the opening words ἐπειδὴ δ' οὖν i. e. 'whether this was the real reason or no, at any rate when at last they *did* desist, &c.'

προκαλοῦνται—γράφαντες.] 'with a view to gain time and to prevent the document-cases being sealed up, they put in a

ἔσεσθαι τοὺς πολλοὺς τῶν λόγων αὐτοῖς. ἐγὼ δ' οἶμαι<sup>a</sup> δεῖν πάντας ὑμᾶς ἐκεῖνο σκοπεῖν, ὅτι οὗτοι, εἰ τοῦ γενέσθαι τὴν βάσανον ἔνεκα προῦκαλοῦντο καὶ ἐπίστευον τῷ δικαίῳ τούτῳ, οὐκ ἂν ἤδη τῆς διαίτης ἀπο- 28 φαινομένης, νυκτὸς, οὐδεμιᾶς ὑπολοίπου σκίψεως οὔσης, προῦκαλοῦντο, ἀλλὰ πρῶτον μὲν πρὸ τοῦ τὴν δίκην ληχθῆναι, ἥνικ' ἀσθενῶν ἐγὼ κατεκείμεν καὶ,

challenge, offering to surrender (lit. that they are willing to surrender) certain slaves, whose names they wrote down, to be examined as to the assault.

The *πρόκλησις*, or challenge, demanding or offering an enquiry into a special 'issue' before an Arbitrator very frequently related to the testimony of slaves presumably cognisant of the matter in dispute. In many cases the challenge would take the form of demanding that the opponent's slaves should be given up to torture (to elicit facts which that opponent was alleged to have concealed or misrepresented) (Dict. Antiq. p. 898 a.) Harpocr. *πρόκλησις* ἐλῶθεσαν, ὅποτε δικάζοντό τις, ἐξαίτειν ἐντορὲ θεράπωνας ἢ θεράποντας εἰς βάσανον ἢ εἰς μαρτυρίαν τοῦ πράγματος, καὶ τοῦτο ἐκαλεῖτο προκαλεῖσθαι, τὸ δὲ γραμματεῖον τὸ περὶ τούτου γραφόμενον ὀνομάζοντο πρόκλησις. (See Or. 45 § 59—62, and Or. 59 § 124—5.)

In the present instance Conon offers to allow certain slaves to be examined. The plaintiff evidently refuses, and this refusal, he says, is sure to be made a strong point against him. He therefore insists that the *πρόκλησις* in question was a mere ruse to protract the proceedings before the Arbitrator,

and that had it been a *bona fide* offer it would have been made at an earlier date, and with all the proper formalities (§ 27—29).

τοὺς ἔχινους.] All the legal documents (*μαρτυρίαι, προκλήσεις* &c.) produced during an arbitration or, indeed, any preliminary examination, e.g. an *ἀνάκρισις*, were enclosed in one or more caskets, or *ἐχίνοι* (possibly of a cylindrical shape), which were sealed up and carefully preserved, to be ready in the event of an appeal. See Or. 45 §§ 17 and 57, Or. 39 § 17, and cf. Or. 48 (Olymp.) § 48, *τὰς συνθήκας πάλιν σημειώσθαι, τὰ δ' ἀντίγραφα ἐμβαλεῖσθαι εἰς τὸν ἐχίνον*.

τῷ δικαίῳ τούτῳ.] 'this plea.' ἤδη διαίτης ἀποφαινομένης.] 'when the award was just being announced.' ἀποφαίνεσθαι, in middle of the διαίτητος Dem. Or. 33 (Apat.) § 19, εἰς ὧν (sc. ἀντὶ τῶν συνδιατηγῶν) ἀποφανεῖσθαι ἐφ' ἣν τὴν δαίταν § 20 ἐρμήν κατ' αὐτοῦ ἀπεφάνετο τὴν δαίταν (cf. § 21 τὴν ἀπόφασιν ἐποιήσατο) : in passive (as here) of the award itself. Reiske's Index (to which these references are due) is wrong in rendering it as a past tense, *sententia iam pronuntiata*.

οὐκ εἰδὼς εἰ περιφεύξομαι, πρὸς ἅπαντας τοὺς εἰσιόν-  
 τας τοῦτον ἀπέφαινον τὸν πρῶτον πατάξαντα καὶ τὰ  
 πλείσθ' ὧν ὑβρίσμην διαπεπραγμένον, τότε ἂν εὐθέως  
 ἦκεν ἔχων μάρτυρας πολλοὺς ἐπὶ τὴν οἰκίαν, τότε ἂν  
 τοὺς οἰκέτας παρεδίδου καὶ τῶν ἐξ Ἀρείου πάγου τινὰς  
 παρεκάλει· εἰ γὰρ ἀπέθανον, παρ' ἐκείνοις ἂν ἦν ἡ 1266  
 29 δίκη. εἰ δ' ἄρ' ἠγνόησε ταῦτα καὶ τοῦτο τὸ δίκαιον  
 ἔχων, ὥς νῦν φήσῃ, οὐ παρεσκευάσατο ὑπὲρ τηλι-  
 κούτου κινδύνου, ἐπειδὴ γ' ἀνεστηκὼς ἤδη προσ-  
 εκαλεσάμην αὐτὸν, ἐν τῇ πρώτῃ συνόδῳ πρὸς τῷ  
 διαιτητῇ παραδιδούς ἐφαίνεται ἂν ὧν οὐδὲν πέπρακται  
 τοῖσι. ὅτι δ' ἀληθῆ λέγω καὶ διακρούσεως ἕνεκα ἡ  
 πρόκλησις ἦν, λέγε ταύτην τὴν μαρτυρίαν· ἔσται γὰρ  
 ἐκ ταύτης φανερόν.

## ΜΑΡΤΥΡΙΑ.

30 Περὶ μὲν τοίνυν τῆς βασάνου ταῦτα μέμησθε,

28. τὸν πρῶτον πατάξαντα.] 'I was pointing out the defendant, to all who came to see me, as the man who struck the first blow.' In a case of assault, the question who struck the first blow would be, of course, important. Or. 47 § 40 βούλομαι τοὺς μάρτυρας παρασχέσθαι οἱ εἰδὼν με πρότερον πληγέντα. ἡ δ' αἰκία τοῦτ' ἔστιν, ὅς ἂν ἀρετῇ χειρῶν ἀδικῶν πρότερος. Cf. Or. 23 § 50, Isocr. Or. 20 § 1, Lysias, Or. 4 § 11.

ἔχων μάρτυρας πολλοὺς.] To give full and legal attestation to the πρόκλησις. So also in Or. 45 § 61, and elsewhere, a πρόκλησις is attested by a μαρτυρία.

ἐξ Ἀρείου πάγου τινὰς.] as special witnesses. § 25 εἰ παθεῖν τί μοι συνέβη, φόνου... ἂν ἦν ὑπόδικος. On the jurisdiction of the Areopagus in cases of homicide, see especially §§ 65—70

of the speech against Aristocrates, Or. 23. — By τοῦτο τὸ δίκαιον is meant τὴν πρόκλησιν.

29. προσεκαλεσάμην.] 'I cited, summoned him,' served him with a πρόκλησις, not to be confounded with προῦκαλεσάμην, 'I challenged him, put in a πρόκλησις.' One ms (the Augustanus primus) actually has προεκαλεσάμην, — a manifest blunder. — 'If he did not know this serious responsibility, and if having (as he will now tell you) this plea on his side (i.e. the offer of the slave), he took no precautions against such a risk (i.e. of a capital charge for murder), yet at least, when on my recovery I issued a summons against him, in our first meeting before the Arbitrator he would have shewn himself willing to give up the slaves.'

§§ 80—83. *He thereupon put in false evidence, alleging that*

τὴν ὄραν ἡνίκα προῦκαλεῖτο, ὧν ἕνεκ' ἐκκρούων ταῦτ' ἐποίησεν, τοὺς χρόνους τοὺς πρώτους, ἐν οἷς οὐδαμοῦ τοῦτο βουληθεὶς τὸ δίκαιον αὐτῷ γενέσθαι φαίνεται, οὐδὲ προκαλεσάμενος, οὐδ' ἀξιώσας. ἐπειδὴ τοίνυν ταῦτα πάντα ἡλέγχето, ἅπερ παρ' ὑμῶν, πρὸς τῷ διαιτητῇ, καὶ φανερώς ἐδείκνυτο πᾶσιν ὧν ἔνοχος τοῖς  
 31 ἐγκεκλημένοις, ἐμβάλλεται μαρτυρίαν ψευδῇ, καὶ ἐπιγράφεται μάρτυρας ἀνθρώπους οὓς οὐδ' ὑμᾶς

certain witnesses, boon companions of his own, deposed that they found the defendant's son and myself fighting in the market-place and that the defendant did not strike me. On my own part, I produce the evidence of strangers who came up by accident, attesting that they saw me struck by the defendant. What motive could these strangers have had for giving 'false evidence' on my side?

30. ὧν ἕνεκ' ἐκκρούων ταῦτ' ἐποίησεν.] As delay and evasion were the object (ὧν ἕνεκα) of the defendant's conduct (§ 27 ἐπὶ διακρούσει and § 29 διακρούσας ἕνεκα), we may at first sight suspect (with Westermann) that ἐκκρούων is an interpolation; it may, however, be defended on the ground that it enables the speaker to reiterate emphatically the real motive of his opponent,—'his purpose, his evasive purpose, in so doing.' In this view, we may, if we please, punctuate the passage thus: ὧν ἕνεκα, ἐκκρούων, ταῦτ' ἐποίησεν. Cf. *fals. leg.* § 144, ἐκκρούσας ἐπὶ τὴν ὑστεραίαν, and see Or. 36 § 2 and Or. 45 § 4.

ἀξιώσας.] sc. τὸ δίκαιον γενέσθαι, 'to have claimed to have this plea allowed him,' i.e. the plea founded on his appeal to the evidence of his slaves.

ἡλέγχето.] The construction is, οὗτος ἡλέγχето ταῦτα πάντα πρὸς τῷ διαιτητῇ ἅπερ (accusative) νῦν παρ' ὑμῶν ἐλέγχεται. Thus the nominative to ἡλέγχето is the same as that of ἐδείκνυτο in the next clause, and no change of construction is requisite.

πᾶσι.] not masc., but to be taken with τοῖς ἐγκεκλημένοις.

31. ἐμβάλλεται.] sc. ἐπὶ τὸν ἐχθρὸν (§ 27), Or. 49 § 65, ἐμβαλομένου ἐμοῦ ὅρκων ἐπὶ τὸν ἐχθρὸν. Trans. 'puts in a false deposition endorsed with names which, I take it, you will recognize, when you hear them.'

ἐπιγράφεται.] Or. 53 § 14, κλητῆρα ἐπιγράφεται. The phrase hardly means 'to give in one's list of witnesses' (L and S), but rather 'to have their names inscribed as witnesses.' ἐπιγράφεται, it will be noticed, is previous in order of time to ἐμβάλλεται. This ὑστερον πρότερον enables the speaker to lead up more easily to the mention of the names of the witnesses.

Westermann draws attention to the following μαρτυρία as indisputably authentic, and therefore serving as a standard by which others purporting to be original depositions may be tested. (See note on Or. 35 (Lacr.) § 10.)

ἀγνοήσῃν οἶμαι<sup>3</sup>, ἐὰν ἀκούσῃτε, “Διότιμος Διοτίμων  
 “Ἰκαριεὺς, Ἀρχεβιάδης Δημοτέλους Ἀλαιεὺς, Χαι-  
 “ρέτιμος<sup>4</sup> Χαριμένους” Πιτθεὺς μαρτυροῦσιν ἀπιέναι  
 “ἀπὸ δειπνου μετὰ Κόνωνος, καὶ προσελθεῖν ἐν ἀγορᾷ  
 “μαχομένοις Ἀρίστωνι καὶ τῷ νείει τῷ Κόνωνος, καὶ  
 32 “μὴ πατάξαι Κόνωνα Ἀρίστωνα,” ὥς ὑμᾶς εὐθέως  
 πιστεύουσιν, τὸ δ’ ἀληθὲς οὐ λυγιουμένους, ὅτι πρῶ-  
 τον μὲν οὐδέποτε<sup>5</sup> ἂν οὐθ’ ὁ Λυσίστρατος οὐθ’ ὁ Πα-  
 σέας οὐθ’ ὁ Νικήρατος οὐθ’ ὁ Διόδωρος, οἱ διαρρηδην  
 μεμαρτυρήκασιν ὅρᾳν ὑπὸ Κόνωνος τυπτόμενον ἐμὲ  
 καὶ θοιμάτιον ἐκδύομενον καὶ τᾶλλα ὅσα ἔπασχον  
 ὑβρίζομενον, ἀγνώτες ὄντες καὶ ἀπὸ ταυτομάτου παρα-  
 γενόμενοι τῷ πράγματι τὰ ψευδῆ μαρτυρεῖν ἤθελ- 1267

<sup>3</sup> Bekk. Χαιρήτιος Z cum FΣ; χαίριτιος Φ.

<sup>4</sup> Bekk. Χαριμένους Z cum ΣΔΔ<sup>1</sup>.

<sup>3</sup> Ἰκαριεὺς... Ἀλαιεὺς... Πιτθεὺς.] The names of the corresponding *demes* are (1) Ἰκαρία, belonging to the tribe *Aegeis*, and placed by Leake ‘in the south part of Diaoria, not far from the Marathonian district:’ (2) Ἀλαί, a name common to two sea-coast *demes*, the first Ἀλαί Ἀλξωνίδες of the tribe *Cecropis* S.W. of Athens and N.W. of Cape Zoster; the second Ἀλαί Ἀραφηνίδες of the tribe *Aegeis* on the east coast of Attica near Brauron; and (3) Πίθος, of the tribe *Cecropis* placed by Bursian N.E. of Athens, near the southern spurs of Brilessus. The spelling Πίθεος is found in the Paris ms Σ, instead of Πιτθεὺς of other mss. The latter is recognised by Harpocr. s. v. Πιτθεὺς: δῆμος τῆς Κεκροπίδος ἢ Πιθός (sic). (Leake’s *Athens*, and Bursian *Geogr.* i. 345, quoted by Westermann).—For Ἀρχεβιάδης see note on § 34.

μὴ πατάξαι Κόνωνα Ἀρίστωνα.]

The sense shews that Conon is the subject, Ariston the object. The order of the words is, in itself, inconclusive. In ὥς—πιστεύσαντας we have the accusative absolute of the participle, used with ὥς, as often with ὥσπερ (*quasi vero*).

32. δν] is constructed with ἠθέλησαν, five lines distant.

Νικήρατος.] possibly the Niceratus to whom Demosthenes pathetically refers in Or. 21 (Meid.) § 165, Νικήρατος ὁ τοῦ Νικίου ἀγαπητὸς παῖς, ὁ παντάπασιν ἀσθενὴς τῷ σώματι. If so, he would be a great-grandson of the Nicias, who commanded in the Sicilian expedition.

θοιμάτιον ἐκδύομενον.] Lysias Or. 10 § 40 (with reference to the term λωποδύτης) εἰ τις ἀπάγοι τινὰ φάσκων θοιμάτιον ἀποδεύσθαι ἢ τὸν χιτωνίσκον ἐκδεδύσθαι, where θοιμάτιον (as here) and χιτωνίσκον are the object and not the subject.

τὰ ψευδῆ.] Cf. Or. 45 § 2

σαν, εἰ μὴ ταυθ' ἐώρων πεπονθότα· ἔπειτ' αὐτὸς ἐγὼ οὐδέποτ' ἄν, μὴ παθὼν ὑπὸ τούτου ταυτ', ἀφείς τοὺς καὶ παρ' αὐτῶν τούτων ὁμολογουμένους τύπτειν ἐμὲ πρὸς τὸν οὐδ' ἀψάμενον πρῶτον εἰσιέναι προειλόμην.

33 τί γὰρ ἂν; ἀλλ' ὑφ' οὗ γε πρῶτου ἐπλήγην καὶ μάλισθ' ὑβρίσθην, τούτῳ καὶ δικάζομαι καὶ μισῶ καὶ ἐπεξέρχομαι. καὶ τὰ μὲν παρ' ἐμοῦ πάνθ' οὕτως ἐστὶν ἀληθῆ καὶ φαίνεται· τούτῳ δὲ μὴ παρασχομένῳ τούτους μάρτυρας ἦν δήπου λόγος οὐδεὶς, ἀλλ' ἡλωκέναι παραχρῆμα ὑπήρχε σιωπῇ. συμπόται δ' ὄντες τούτου καὶ πολλῶν τοιούτων ἔργων κοινωνοὶ εἰκότως τὰ ψευδῆ μεμαρτυρήκασιν. εἰ δ' ἔσται τὸ πρᾶγμα τοιούτου, ἔάν

" 'Reiskius, (ῶστ') ἐάν ἀπαξ—οὐδὲν εἶναι τῆς ἀληθ. Hoc quidem speciose, sed illud non puto necesse.' Dobree.

'if they had not actually seen the assault, they would never have consented to give false evidence,' i.e. evidence which, on that supposition, would have been false, τὰ ψευδῆ ἂν ὄντα εἰ μὴ ταυθ' ἐώρων.

ἔπειτ' αὐτὸς ἐγὼ] refers to *ὅτι πρῶτον μὲν* (ol *μάρτυρες*) and still subordinate to the distant *ὅτι*.

πρῶτον.] adverb, to be taken with *εἰσιέναι*, contrasted with *ὑφ' οὗ πρῶτου ἐπλήγην*. 'I prosecute first the man who struck me first of all the assailants.' This seems better than to take it with *ἀψάμενον*, 'him who did not even touch me first.'

εἰσιέναι.] *eis τὸ δικαστήριον*. See note on Or. 45 §7. Reiske's index shews that this verb is used in Dem. of either litigant or both, or again of the cause itself, or even with *δικήν* or *γραφὴν* as accusative after it.

33. τί γὰρ ἂν;] 'Why should I?' The mss have the interpolation, *ἡ διὰ τί*; probably a mere explanation of *τί*; as equivalent to *διὰ τί*;

δικάζομαι ... μισῶ ... ἐπεξέρχομαι.] 'Sue...abhor...prosecute (visit with vengeance)', 'he it is whom I sue and prosecute as my enemy.' The collocation of *μισῶ*, expressive of inward feeling, between *δικάζομαι* and *ἐπεξέρχομαι*, indicating outward acts, is curious. The latter word is probably immediately suggested by *μισῶ* 'not only do I hate him in my heart, but I carry out that hatred to its practical issue by prosecuting him.'

φαίνεται] sc. *ἀληθῆ ὄντα*, not 'appears,' but 'is proved to be,' 'is clearly true.'—*μὴ παρασχομένος* = *εἰ μὴ παρέσχετο*.

εἰκότως.] to be taken with *τὰ ψευδῆ μεμαρτυρήκασιν*, not with *κοινωνοί*.

εἰ δ' ἔσται κ.τ.λ.] 'If it comes to such a pass, if once certain persons are lost to all sense of shame and openly dare to give false evidence, and (consequently) truth has no advantage, it will be an atrocious state of things.' The simple construction would have been

ἄπαξ ἀπαναισχυντήσωσί τινες καὶ τὰ ψευδῇ φανερώς  
τολμήσωσι μαρτυρεῖν, οὐδὲν δὲ τῆς ἀληθείας ὄφελος,  
34 πάνδεινον ἔσται πρᾶγμα. ἀλλὰ νῆ Δία οὐκ εἰσὶ τοιού-  
τοι. ἀλλ' ἴσασιν ὑμῶν, ὡς ἐγὼ νομίζω, πολλοὶ καὶ τὸν  
Διότιμον καὶ τὸν Ἀρχεβιάδην καὶ τὸν Χαιρέτιμον<sup>x</sup> τὸν

<sup>x</sup> Bekk.

Χαιρήτιον Z cum FΣΦ. Cf. § 31.

as follows: ἐὰν δὲ ἄπαξ ἀπαναι-  
σχυντήσωσί τινες καὶ τὰ ψευδῇ  
φανερώς τολμήσωσι μαρτυρεῖν,  
οὐδὲν ἔσται τῆς ἀληθείας ὄφελος'  
εἰ δὲ ἔσται τὸ πρᾶγμα τοιούτον,  
πάνδεινον ἔσται.

As it is, Demosthenes, by  
writing τοιούτων in the early  
part of the sentence, leads us  
to expect ὥστε, which however  
never comes; we have instead,  
the clause ἐὰν, κ.τ.λ., exegetical  
of τοιούτων; again οὐδὲν τῆς  
ἀληθείας ὄφελος is in sense the  
apodosis of ἐὰν...τὰ ψευδῇ τολ-  
μήσωσι μαρτυρεῖν, but in con-  
struction is made part of the  
protasis. πάνδεινον ἔσται πρᾶγμα  
is left to do duty as an apo-  
dosis and πρᾶγμα is necessarily  
repeated owing to the long  
interval that separates the  
apodosis from τὸ πρᾶγμα in the  
protasis.

For εἰ—οὐδὲν, see note on  
Or. 34 § 48.

ἀπαναισχυντήσωσι] used of  
unblushing effrontery. Cf. ἀπα-  
υθαδίζεισθαι. Or. 29 § 20, τὸ  
μὲν πρῶτον ἀπηναισχύντει, τοῦ δὲ  
δαιτητοῦ κελεύοντος μαρτυρεῖν ἢ  
ἐξομνεῖν, ἐμαρτύρησε πάννυ μολίς.

34. ἀλλὰ νῆ Δία] used, as  
often, like *at enim*, to introduce  
emphatically an anticipated re-  
joinder on the part of the op-  
ponents. 'Oh but, good hea-  
vens! they are not such cha-  
racters as I make them out.'  
The phrase may be seen in its  
fullest form in Or. 20 § 3 ἀλλὰ νῆ  
Δί' ἐκείνο ἀν' ὧς εἶποι πρὸς ταῦτα.

§§ 34—37. Many of you  
know the characters of the wit-  
nesses for the defence,—men who,  
in the daytime, affect an aus-  
terity which is very inconsistent  
with their conduct when they  
meet together. They will un-  
scrupulously contradict the evi-  
dence on our side, but you will  
remember that I rely on medical  
witnesses, whereas my oppo-  
nents have no independent tes-  
timony, and, but for themselves,  
could get no evidence at all a-  
gainst me. People who break into  
houses, and assault persons in  
the streets, would surely have  
no scruple about putting down  
false evidence on a paltry piece  
of paper.

34. Ἀρχεβιάδην.] This wor-  
thy, who has already been men-  
tioned among the witnesses in  
§§ 7 and 31, and must not be  
confounded with the still less  
known Ἀρχεβιάδης ὁ Λαμπτινός  
(Or. 52 § 3), was evidently quite  
a 'character,' judging from Plu-  
tarch's description of him as  
'a man of sour countenance  
who always wore a coarse cloak  
and had grown a prodigious  
beard.' *Phocion. x init. ἦν δὲ  
τις Ἀρχεβιάδης ἐπικαλούμενος  
Λακωνιστής, πώγωνά τε κα-  
θειμένος ὑπερφύῃ μεγέθει καὶ  
τρίβωνα φορῶν ἀεὶ καὶ σκυ-  
θρωπάξων* τοῦτων ἐν βουλῇ  
θορυβούμενος ὁ Φωκίων ἐπεκαλεῖτο  
τῷ λόγῳ μάρτυν ἅμα καὶ βοηθόν.  
ὡς δὲ ἀναστὰς ἐκείνος ἀπὸς χά-  
ριν ἦν τοῖς Ἀθηναίοις συνεβού-



ἐπιπόλιον τουτονί, οἷ μεθ' ἡμέραν μὲν ἐσκυθρωπάκασι  
καὶ λακωνίζειν φασὶ καὶ τρίβωνας ἔχουσι καὶ ἀπλῶς  
ὑποδέδενται, ἐπειδὰν δὲ συλλεγῶσι καὶ μετ' ἀλλήλων  
35 γένωνται, κακῶν καὶ αἰσχυρῶν οὐδὲν ἑλλείπονσι· καὶ  
ταῦτα τὰ λαμπρὰ καὶ νεανικά ἐστίν αὐτῶν "οὐ γὰρ

λευν, ἀψάμενος αὐτοῦ τῶν γε-  
ρείων "ὦ 'Αρχεβιάδῃ" εἶπε "τί  
οὐκ ἀπεκείρω;" It will be ob-  
served that Plutarch's anecdote  
contains several points of coin-  
cidence with the passage be-  
fore us.

τὸν ἐπιπόλιον] 'the grey-  
headed man yonder' (present in  
court). Aristot. *Gen. anim.* v.  
5. 3 ἐπιπολιούνται αἱ τρίχες 'the  
hair grows grizzled.' [ἐπιπόλιος  
is perhaps much the same as  
the Homeric *μεσαιπόλιος*, II. xiii.  
361, whether the sense is 'grey  
on the top,' or 'half grey,' 'griz-  
zled.' P.]

ἐσκυθρωπάκασι] i.e. 'assume  
a sour expression and a frown-  
ing brow.' Cf. Or. 45 § 68.

λακωνίζεν φασί] i.e. 'pre-  
tend to imitate the Laconians.'  
Plato *Protag.* 342 B, οἱ μὲν (sc.  
ἐν ταῖς πόλεσι λακωνίζοντες) ὥτά  
τε κατὰ γυννται (i.e. get their ears  
battered in boxing) μιμούμενοι  
αὐτοὺς, καὶ μάλιστα περιεὶλίσσονται  
καὶ φιλογυμναστοῦσι καὶ βρα-  
χείας ἀναβολὰς φοροῦσιν,  
ὥς δὴ τοῖσι κρατοῦνται τῶν Ἑλ-  
λήνων τοὺς Λακεδαιμονίους. Ar.  
*Aves* 1281 ἑλακωνομάουν ἀ-  
παντες ἄνθρωποι τότε | ἐκόμων,  
ἐπέων, ἐρρύπων, ἐσωκράτουν,  
| ἐσκυταλιοφόρουν (v. Becker's *Cha-  
ricles* p. 63 with n. 8).

τρίβωνας.] Sometimes men-  
tioned as characteristic of La-  
conians. Plutarch *Nicias* 19:  
τοὺς Σικελιώτας .. σκώπτοντας εἰς  
τὸν τρίβωνα καὶ τὴν κόμην (of Gy-  
lippus the Spartan general)... ἐν  
τῇ βακτηρίᾳ καὶ τῷ τρίβωνι τὸ

σύμβολον καὶ τὸ ἄξιωμα τῆς Σπάρ-  
της καθορῶντες... Athenæus xii.  
50, p. 535 (quoting the historian  
Douris) Πανσανίας ὁ τῶν Σπαρ-  
τιατῶν βασιλεὺς, καταθέμενος τὸν  
πάτριον τρίβωνα, τὴν Περ-  
σικὴν ἐνεδύετο στολήν. [At the  
same time, the regular dress of  
the old Athenian dicast or ec-  
clesiast was the τρίβων and the  
βακτηρία, both often mentioned  
in Aristoph. P.]

ἀπλῶς ὑποδέδενται] 'wear  
single-soled shoes' sc. ἐμβάδας.  
Harpoeration ἀπλᾶς. Δημ. κατὰ  
Κόνωνος. Καλλίστρατος φησι τὰ  
μονόπελα τῶν ὑποδημάτων οὕτω  
καλεῖσθαι. Στράτις Δημομέδης  
'ὑποδήματα σαντῶ πρίσθαι τῶν  
ἀπλῶν.' Hesychius, ἀπλαῖ ὑπο-  
δήματος εἶδος. They had only one  
thickness of sole and were ap-  
parently more like slippers than  
shoes. (Becker, *Charicles*, p.  
449.) There was also a more  
elaborate kind of shoes known as  
Λακωνικά. For the general drift  
of the sentence cf. Isæus Or. 5  
§ 11 ὁνειδίζει καὶ ἐγκαλεῖ αὐτῷ  
ὅτι ἐμβάδας καὶ τριβώνια φορεῖ  
ὥσπερ ἀδικούμενος τι εἰ ἐμβάδας  
Κηφισδοτος φορεῖ, ἀλλ' οὐκ ἀδι-  
κῶν ὅτι ἀφελόμενος αὐτὸν τὰ θνη-  
τὰ πόνηρα πεποίηκεν.

συλλεγῶσι] sc. νυκτός, con-  
trasted with μεθ' ἡμέραν μὲν.

κακῶν καὶ αἰσχυρῶν] 'wicked-  
ness and indecency.'

35. τὰ λαμπρὰ καὶ νεανικά] 'their splendid and spirited  
pleas.'

οὐ γὰρ κ.τ.λ.] 'What! sha'n't  
we, &c.' quidni igitur?

“ ἡμεῖς μαρτυρήσομεν ἀλλήλοις; οὐ γὰρ ταῦθ' ἐταίρων  
 “ ἐστὶ καὶ φίλων; τί δὲ καὶ δεινόν ἐστιν ὧν παρέξεται  
 “ κατὰ σοῦ; τυπτόμενόν φασὶ τινες ὄρᾶν; ἡμεῖς δὲ  
 “ μὴδ' ἠφθαι τὸ παράπαν μαρτυρήσομεν. ἐκδεδύσθαι 1268  
 “ θοϊμάτιον; τοῦτ' ἐκείνους πρότερον πεποιηκέναι ἡμεῖς  
 “ μαρτυρήσομεν. τὸ χεῖλος ἐρράφθαι; τὴν κεφαλὴν δέ  
 36 “ γ' ἡμεῖς ἢ ἕτερόν τι κατεαγέναι φήσομεν.” ἀλλὰ καὶ  
 μάρτυρας ἰατροὺς παρέχομαι. τοῦτ' οὐκ ἔστιν, ὦ ἄν-  
 δρες δικασταί, παρὰ τούτοις· ὅσα γὰρ μὴ δι' αὐτῶν,  
 οὐδενὸς μάρτυρος καθ' ἡμῶν εὐπορήσουσιν. ἢ δ' ἀπ'  
 αὐτῶν ἐτοιμότης οὐδ' ἂν εἰπεῖν μὰ τοὺς θεοὺς δυ-  
 ναίμην ὅση καὶ οἷα πρὸς τὸ ποιεῖν ὅτιοῦν ὑπάρχει.  
 ἵνα δ' εἰδῆτε οἷα καὶ διαπραττόμενοι περιέρχονται,  
 λέγε αὐτοῖς ταυτασὶ τὰς μαρτυρίας, σὺ δ' ἐπίλαβε  
 τὸ ὕδωρ.

ὡ παρέξεται.] constr. τί δὲ καὶ δεινόν ἐστὶν ἐκ τούτων ἃ παρέξεται ὁ Ἀρίστων κατὰ σοῦ; ‘is there any serious harm, anything really worth fearing?’

ἠφθαι] passive, referring to Ariston, like τυπτόμενον just before. ‘ἡμῶν is pf. mid. in Soph. Tr. 1009 (ἦπται) and Pl. Phaedr. 260 (ἠφθαι)’ (we may add Dem. Or. 61 § 5, ἠφθαι τῆς τριήρους τούτου); ‘pf. passive in Eur. Hel. 107, Ar. Pl. 301 and Thuc. iv. 100.’ Veitch, *Greek Verbs*.

ἐρράφθαι] § 41, τὸ χεῖλος διακοπεῖς οὕτως ὥστε ραφῆναι. This was doubtless part of the surgeon's evidence in § 10.

κατεαγέναι] second perfect in passive sense. For other constructions, cf. Pl. Gorg. 469 D, τῆς κεφαλῆς κατεαγέναι and Lys. Or. 3 § 40 καταγείας τὴν κεφαλὴν δπ' αὐτοῦ.

36. ὅσα μὴ] ‘except what is (deposed) by means of themselves;’ ‘nam nisi quod sibi ipsi testa-

buntur nullum adversus nos tes-tem habebunt. Plutarch *Timol.* 3, πρὸς διαφερόντως ὅσα μὴ μισοτύραννος εἶναι καὶ μισοπόνηρος.’ G. H. Schaefer.

ὅση καὶ οἷα] *quantum et qualis*. ‘In heaven's name I could not tell you the extent and the character of the readiness existing on their part to perpetrate anything in the world.’ Cf. the common collocation τοσοῦτος καὶ τοιοῦτος (e.g. § 37), which may often be conveniently paraphrased as above.

ἵνα εἰδῆτε.] The speaker uses the plural in addressing the δικασταί, and passes off to the singular λέγε, on turning to the clerk of the court.

ἐπίλαβε τὸ ὕδωρ.] Or. 45 § 8 etc. The κλεψύδρα (Becker's *Charicles*, p. 212 n.) was always stopped by the functionary in charge of it (ὁ ἐφ' ὕδωρ) during the recitation of documents: it was only the duration of the

## ΜΑΡΤΥΡΙΑΙ.

- 37 *Τοίχους τοίνυν διорύττοντες καὶ παίοντες τοὺς ἀπαντῶντας, ἀρ' ἂν ὑμῖν ὀκνήσαι δοκοῦσιν ἐν γραμματειδίῳ τὰ ψευδῇ μαρτυρεῖν ἀλλήλοισ' οἱ κεκοινωνηκότες τοσαύτης καὶ τοιαύτης φιλαπεχθημοσύνης καὶ πονηρίας καὶ ἀναιδείας καὶ ὕβρεως; πάντα γὰρ ταῦτ' ἔμοιγ' ἐν τοῖς ὑπὸ τούτων πραττομένοις ἐνείναι δοκεῖ. καίτοι καὶ τούτων ἕτερ' ἐστὶ πεπραγμένα τούτοις δεινότερα, ἀλλ' ἡμεῖς οὐχ οἶοί τε γενοίμεθ' ἂν πάντας ἐξευρεῖν τοὺς ἡδίκημένους.*

- 38 *Ὁ τοίνυν πάντων ἀναιδέστατον μέλλειν αὐτὸν*

*ἢ Bekk.*

*om. Σ prima manu.*

speech proper that was reckoned in the allowance of time measured by the water-clock. Or. 86 ends with the words *ἐξέρα τὸ ὕδωρ* 'pour out the water,' implying that the orator had found it unnecessary to avail himself of the full allowance of time. The Orators frequently use *ὑδωρ* in the sense of 'time allotted' for a speech, e.g. *ἐν τῷ ἐμῷ ὕδατι* 'in my water,' *ἐν μικρῷ μέρει τοῦ παντός ὕδατος*. So Or. 42 fin. *πρὸς ὀλίγον ὕδωρ ἀναγκαζόμενος λέγειν*. Cf. Pliny *Ep.* II. 11. 14 *dixi horis paene quinque; nam duodecim clepsydris quas spatiosissimas acceperam sunt additae quattuor*.

37. *τοίχους διорύττοντες*.] The documents just read have deposed to the defendant's witnesses being guilty *inter alia* of housebreaking (*τοιχωρυχία*).

*γραμματειδίῳ*] 'a mere bit of paper,' 'a paltry document.' Or. 56 § 1 *ἐν γραμματειδίῳ δυοῖν χαλκοῖν ἐωνμένῳ καὶ βιβλιδίῳ μικρῷ πᾶν*. The diminutive is thrown into effective contrast by the subsequent *τοσαύτης καὶ τοιαύτης*.

*φιλαπεχθημοσύνης*] 'malignity,' 'quarrelsomeness,' used also by Isocr. *de perm.* § 315, *ὠμότης καὶ μισανθρωπία καὶ φιλαπεχθημοσύνην*. Dem. Or. 24 § 6 *πονηρῶ καὶ φιλαπεχθήμονι καὶ θεοῖς ἐχθρῶ*.

*καίτοι...τοίοις*] a fortuitous hexameter.

§§ 38—41. *I must warn you that Conon will try to impose upon you by swearing by the lives of his own sons and by other strange imprecations. His recklessness about oaths is proved by what I have heard of the profanity of his youthful days; and surely Conon who would think nothing of perjury is not to be credited in comparison with myself, who, so far from swearing by the lives of my children, would not swear at all except under compulsion, and even then, only in a lawful manner. Such an oath I was willing to take for the truth's sake; and, in self-defence against the perjury of my opponent, I challenged him to accept my offer to take the oath, and I now solemnly swear that Conon whom I now prose-*

ἀκούω ποιεῖν, βέλτιον νομίζω προειπεῖν ὑμῖν εἶναι. φασὶ γὰρ παραστησάμενον τοὺς παῖδας αὐτὸν κατὰ τούτων ὁμείσθαι, καὶ ἀράς τινας δεινὰς καὶ χαλεπὰς ἐπαράσσεσθαι<sup>α</sup> καὶ τοιαύτας, ὅσας ἀκηκοὺς γέ τις θαυμάσας ἀπήγγειλεν<sup>β</sup> ἡμῖν. ἔστι δὲ, ὧ ἄνδρες δικασταί, ἀνυπόστατα μὲν τὰ τοιαῦτα τολμήματα· οἱ γὰρ οἶμαι βέλτιστοι καὶ ἥκιστ' ἂν αὐτοὶ τι ψευδόμενοι μάλισθ'

<sup>α</sup> 'Bekk. cum H. Wolfio et corr. Σ.'

-σασθαι Ζ.

<sup>β</sup> Bekk. ἀπήγγειλεν Ζ cum ΣΦ.

cute really assaulted and brutally maltreated me.

88. παραστησάμενον τοὺς παῖδας.] The practice of exciting the compassion of the jury by bringing the children into court is often referred to, e.g. Or. 21 § 99, παῖδια γὰρ παραστήσεται καὶ κλαῖσει καὶ τούτοις αὐτὸν ἐξαίτησεται, and Hyperides *Euxenipp.* ad fin. ἐγὼ μὲν οὖν σοὶ Εὐξένιππε βεβοήθηκα ὅσα εἶχον. λοιπὸν δ' ἐστὶ δεῖσθαι τῶν δικαστῶν καὶ τοὺς φίλους παρακαλεῖν καὶ τὰ παῖδια ἀναβιβάζεσθαι, (see especially Aristophanes' ridicule of the custom in *Vespae* 568—74 and 976—8). But in the present case a still more sensational effect is to be produced by Conon's laying his hands upon his children's heads and praying that the direst curses may come down upon them, if his statements are false.

κατὰ τούτων ὁμείσθαι] 'to swear by them,—by their lives.' κατὰ implies the basis on which the oath rests [or, rather, hostile action directed against the object sworn by. So in *Ar. Equit.* 660, κατὰ χιλῶν παρήνεσα εὐχὴν ποιήσασθαι χιμάρων, the vow is, as it were, aimed at the lives of the creatures to be sacrificed. P.J. Thuc. v. 47, δ-

μύντων τὸν ὄρκον κατὰ ἱερῶν τελείων, Isaeus Or. 7 § 16, ὁμύναι καθ' ἱερῶν, Lys. Or. 32 § 18, ἐπι-ορκήσασα κατὰ τῶν παίδων τῶν ἐμῶν, Dem. 29 § 26 ἡ μήτηρ κατ' ἐμοῦ καὶ τῆς ἀδελφῆς πίστιν ἠθέλησεν ἐπιθεῖναι, Or. 19 § 292, Or. 21 § 119. (Kühner's *Greek Grammar*, § 433 fin.)

We find a curious parallel in a charge made as follows against Demosthenes himself by Deinarchus, Or. 1 § 71, ποῦ τοῦτ' ἐστὶ δίκαιον...τοὺς μὲν νόμους προλέγειν...παιδοποιεῖσθαι κατὰ τοὺς νόμους...σὲ δὲ τοὺς οὐ γεγεννημένους υἱεῖς σαντῷ προσποιεῖσθαι παρὰ τοὺς νόμους τῶν ἐν ταῖς κρίσεσιν ἔνεκα γιγνομένων ὄρκων.

ἀκηκοὺς...ἀπήγγειλεν] i.e. 'our informant listened to them in amazement.'

ἀνυπόστατα] not exactly 'intolerable' but 'irresistible,' 'impossible to withstand.' The most upright of men and those who are least likely to tell a falsehood themselves (the jury for instance) are most likely to be deceived by such asseverations (ὅτι τῶν τοιούτων 80. τολμημάτων).

οἱ οἶμαι βέλτιστοι.] For the position of οἶμαι, cf. Pl. *Gorg.* 483 c, ἡ δὲ γε οἶμαι φύσις, and *Rep.* 504 a, ἐξ οἶμαι τῆς ἀκροτάτης ἐλευθερίας.

ὑπὸ τῶν τοιούτων ἐξαπατῶνται· οὐ μὴν ἀλλὰ δεῖ πρὸς 1269  
 39 τὸν βίον καὶ τὸν τρόπον ἀποβλέποντας πιστεῦναι. τὴν  
 δὲ τούτου πρὸς τὰ τοιαῦτ' ὀλιγωρίαν ἐγὼ πρὸς ὑμᾶς  
 ἐρῶ· πέπυσμαι γὰρ ἐξ ἀνάγκης. ἀκούω γὰρ, ὦ ἄνδρες  
 δικασταί, Βάκχιόν τέ τινα, ὅς· παρ' ὑμῖν ἀπέθανε, καὶ  
 Ἀριστοκράτην τὸν τοὺς ὀφθαλμοὺς διεφθαρμένον καὶ  
 τοιούτους ἑτέρους καὶ Κόνωνα τουτουὶ ἑταίρους εἶναι  
 μειράκια ὄντας καὶ Τριβαλλοὺς ἐπωνυμίαν ἔχειν· τού-  
 τους τὰ τε Ἑκαταῖα κατεσθίειν<sup>ο</sup>, καὶ τοὺς ὄρχεις τοὺς

<sup>ο</sup> Bekk.

κατακαίειν FΣΦ. om. Z.

οὐ μὴν ἀλλὰ] = 'not but that.' The phrase is always elliptical: here we may supply οὐ μὴν (ὑπὸ τῶν τοιούτων δεῖ ἐξαπατᾶσθαι) ἀλλὰ...

πρὸς τὸν βίον...πιστεῦναι.] 'You must turn your eyes (away from ἀπο... his solemn assurances in court) to his life and character and then believe him (if you can).

39. πρὸς τὰ τοιαῦτα] sc. ὁρκους. πέπυσμαι...ἀνάγκης] i.e. the defendant has forced the enquiry upon me (cf. § 17 fin. ἀνάγκη...).

παρ' ὑμῖν ἀπέθανε] 'was condemned to death in your court, —by your verdict.'

Ἀριστοκράτην.] Probably identical (as Westermann suggests) with the person mentioned in Or. 38 § 27 τῶν αἰσχυρῶν ἐστὶ... τὰ μὲν ὅντα κατεσθίοντας καὶ παραινούντας μετὰ Ἀριστοκράτους καὶ Διογνήτου καὶ τοιούτων ἑτέρων αἰσχυρῶς καὶ κακῶς ἀνηλωκένας.

τὸν τοὺς ὀφθ. διεφθαρμένον] 'the man with the bad eyes' (perhaps blind from ophthalmia, *luscus*). For pass. of διαφθεῖρω used of impaired sight or hearing, and similar physical defects, cf. Hd. i. 84 ἦσαν τῷ Κρόλῳ δύο παῖδες, τῶν οὐτερος μὲν

διέφθαρτο, ἦν γὰρ δὴ κωφός, and ib. 38 διεφθαρμένος τὴν ἀκοήν. Dem. Or. 13 § 13 δεῖ τὰ ὅσα πρῶτον ὑμῶν ἰδασθαι, διέφθαρται γάρ.

Τριβαλλοῦς.] See *Excursus* (D) at the end of this speech.

τὰ Ἑκαταῖα.] Once every month, at the time of the new moon, dishes of food were set out for Hecate in the evening at the places where three roads met; and the food thus offered was not unfrequently eaten by poor people. Cf. Arist. *Plutus*, 594—7, παρὰ τῆς Ἑκάτης ἔξεστιν τοῦτο πυνθέσθαι | εἴτε το πλουτέων εἴτε τὸ πεινῶν βέλτιον. φησὶ γὰρ αὕτη | τοὺς μὲν ἔχοντας καὶ πλουτοῦντας δεῖπνον κατὰ μὴν' ἀποπέμπειν, τοὺς δὲ πένητας τῶν ἀνθρώπων ἀρπάζειν πρὶν καταθεῖναι (with the *Scholia*). [Juv. *venal* v. 85, 'exigua feralis cena pratella,' Psalm cvi. 28, 'they ate the offerings of the dead.' This act, and the eating of the καθάρματα, which had a mystical import, are cited as instances of impious bravado in things sacred, which augured ill for Conon's paying any regard to the obligations of a solemn oath. F.] In Lucian's dialogues of the dead (i. 1. = p. 331. R.)

ἐκ τῶν χοίρων<sup>4</sup>, οἷς καθαίρουσιν ὅταν εἰσιέναι μέλλωσι,  
συλλέγοντας ἐκαστοτε συνδειπνεῖν ἀλλήλοις, καὶ ῥῶον  
40 ὁμνύναι καὶ ἐπιорκεῖν ἢ ὅτιοῦν. οὐ δὲ Κόνων ὁ τοιοῦτος

<sup>4</sup> τὰς ὄρνεις (ὄρνις kB) τὰς ἐκ τῶν χωρῶν (χορῶν ΓΑ') αἰς libri.

Diogenes asks Pollux to invite from the upper world Menippus the Cynic, who is sure to bring his wallet well stocked with broken victuals, λέγε αὐτῷ..., ἐμπλησάμενον τὴν πήραν ἔκειν θέρμων τε πολλῶν καὶ εἰπου εὖροι ἐν τῇ τριόδῳ Ἐκάρτης δεῖπνον κείμενον ἢ ψὸν ἐκ καθαρσίου ἢ τι τοιούτου.

Hemsterhuis in an exhaustive note on the above passage (Vol. II. p. 397—400 ed. Bipont.) also quotes Plutarch II. p. 290 D, (the dog) χθονία δειπνον Ἐκάρτη πεμπόμενος εἰς τριόδους ἀποτροπαίων καὶ καθαρσίων ἐπέχει μοῖραν, *Quaest. Rom.* p. 280 B, *Symp.* VII. p. 708 F. We may add Charicleides cited by Athenaeus VII. 325, δέσποινα Ἐκάρτη, τριοδίτι, τριμορφε, τριπρόσωπε, τρίγλαις (mullet) κηλειμένα.

After the word Ἐκαταῖα some of the mss (including Σ) have κατακαλεῖν, 'to burn up,' which is not likely to be the right reading; others (e. g. *Augustanus primus*) have κατεσθλεῖν, which makes good sense and is commonly accepted (e. g. by Dindorf). Of Reiske's conjectures (κατ' ἀγνιάς and καταπίνειν) neither can be considered probable. Baiter leaves out the verb, thus making συλλέγοντας govern Ἐκαταῖα as well as ὄρνεις. Westermann suggests κλέπτειν but follows Baiter. κατακαλεῖν may perhaps be accounted for by supposing that Ἐκαταῖα or καταῖα was erroneously written twice by an early copyist; a subsequent copyist might alter

this into the nearest verb he could think of, κατακαλεῖν; this would be seen to be wrong by a still later writer, who would substitute the intelligible word κατεσθλεῖν.

τοὺς ὄρνεις τοὺς ἐκ τῶν χοίρων.] The mss have τὰς ὄρνεις (or ὄρνις) τὰς ἐκ τῶν χωρῶν (or χορῶν) αἰς. But birds are out of place in an expiatory sacrifice prior to a public assembly, and the use of young pigs for this purpose is distinctly attested by ancient authorities; we must therefore accept the certain emendation given in the text, and originally proposed by Hemsterhuis (in his note on Lucian above referred to).

Harpocr. (and Photius) καθάρσιον. Αἰσχίνης κατὰ Τιμάρχου (§ 23, speaking of the ἐκκλησία, ἐπειδὴ τὸ καθάρσιον περιενεχθῆ), ἔθος ἦν Ἀθήνησι καθαίρειν τὴν ἐκκλησίαν καὶ τὰ θέατρα καὶ ὅλους τὰς τοῦ δήμου συνόδους μικροῖς πάνυ χοιριδίοις ἀπερ ὀνόμαζον καθάρσια· τοῦτο δ' ἐποίουν οἱ λεγόμενοι περιστίαρχοι, ὅπερ ὀνόμασθσαν οὕτως ἦτοι ἀπὸ τοῦ περιστελεῖν ἢ ἀπὸ τῆς ἐστίας. (*Δρ. Eccl.* 128, ὁ περιστίαρχος περιφέρειν χρὴ τὴν—γαλῆν.)

καθαίρουσιν.] A plural indefinite, with the subject omitted; cf. the frequent use of φασί, λέγουσι, ὀνομάζουσι.

εἰσιέναι] so. εἰς τὴν ἐκκλησίαν, etc. Hence εἰσιτήρια (fals. leg. § 210 with Shilleto's note). ἢ ὅτιοῦν.] 'They think less of swearing and perjuring themselves than anything else whatsoever,' 'than anything else in

πιστός ἐστιν ὁμνύων· οὐδὲ πολλοὺ δεῖ· ἀλλ' ὁ μὴδ' εὖ-  
ορκον μὴδὲν ἂν ὁμόσας ὦν μὴ νομίζετε\*, κατὰ δὲ δὴ

\* *U cum Sauppe.* ὁμόσας, κατὰ δὲ δὴ παίδων ὦν μὴ νομίζετε Bekker.—' *Lege ὦν μὴ νομίζεται μὴδὲν μὴδ' ἂν μελλήσας, qui ne in animum quidem induxerit ut novo et inusitato more per liberorum capita iuret... Imo transpone, ὁμόσας ὦν μὴ νομίζεται, κατὰ δὲ δὴ τῶν παίδων μὴδ' ἂν μελλήσας.*' Dobree.

the world.' Or. 56 § 15 οὐδὲν γε μᾶλλον ἢ ὁτιοῦν.

40. οὐ δὴ...οὐδὲ πολλοὺ δεῖ.] Here, as usual in this phrase, οὐδὲ reiterates the preceding negation (οὐ δὴ) but does not negative πολλοὺ δεῖ although closely pronounced with it. (Cf. fals. leg. § 38 οὐ γὰρ...τὰ πρῶγματ' ἐστὶ φαῦλα...οὐδὲ πολλοὺ δεῖ, with Shilleto's note.) We have an apparent exception to this rule in Or. 18 § 20 φανήσεται γὰρ οὐδὲ πολλοὺ δεῖ τῆς γεννησομένης ἀξίον αἰσχύνης, where there is no preceding negative expressed. The exception may however be explained on the supposition that φανήσεται is ironical and therefore implies a negative: οὐ γὰρ φανήσεται τῆς γεννησομένης ἀξίον αἰσχύνης, οὐδὲ πολλοὺ δεῖ.

οὐ δὴ κ.τ.λ.] A very elegant and idiomatic passage: 'Conon then, as a character such as I have described, is not to be trusted on oath; far from it, indeed. No! the man who would not take even an oath that he intends to observe by any object you do not recognise (i.e. such as Conon swears by) and would not for a moment think of doing so on the lives of his children, but would rather suffer anything than that,—and who, even when constrained, will take none but a customary oath,—I say, such a man is more to be trusted than one who swears by his

sons and offers to undergo the fiery ordeal.' P.]

ὁ μὴδ'—μελλήσας. The mss have ὁ μὴδ' εὖορκον μὴδὲν ἂν ὁμόσας, κατὰ δὲ δὴ παίδων, ὦν μὴ νομίζετε, μὴδ' ἂν μελλήσας. There are two objections to this, (i) the plaintiff describes himself as one who is 'reluctant to swear even to the truth' whereas in § 41 he publicly swears to having been assaulted by the defendant, (ii) an oath by the lives of one's children is described as 'contrary to usage' ὦν μὴ νομίζετε, whereas this very oath is elsewhere attributed to the mother of Demosthenes. Or. 29 §§ 26, 33, 54, 56 ἡ μήτηρ κατ' ἐμοῦ καὶ τῆς ἀδελφῆς...πίστιν ἠθέλησεν ἐπιθεῖναι...ἣν μὴδεὶς ὑμῶν νομίζετω καθ' ἡμῶν ποτ' ἂν ὁμνύναι ταῦτ' ἂν ἐθέλῃ, εἰ μὴ σαφῶς ᾔδει τὰ εὖορκα ὁμνυμένη. Or. 19 § 292.

We may therefore accept Sauppe's conjecture ὁ μὴδ' εὖορκον μὴδὲν ἂν ὁμόσας ὦν μὴ νομίζετε, κατὰ δὲ δὴ παίδων μὴδ' ἂν μελλήσας.

If an easier alteration is preferred, we may retain the order as it stands in the mss, simply inserting μὴδὲν after ὦν μὴ νομίζετε, and accounting for its loss by its similarity to the subsequent μὴδ' ἂν. The sentence would then run thus: ὁ μὴδ' εὖορκον μὴδὲν ἂν ὁμόσας, κατὰ δὲ δὴ παίδων, ὦν μὴ νομίζετε μὴδὲν μὴδ' ἂν μελλήσας. Thus ὦν μὴ νομίζετε depends on μὴδὲν

παίδων μηδ' ἂν μελλήσας, ἀλλὰ κἂν ὅτιοῦν παθῶν πρότερον, εἰ δ' ἀναγκαῖον, ὁμνύων ὡς νόμιμον, ἀξιοπιστότερος τοῦ κατὰ τῶν παίδων ὁμνούντος καὶ διὰ τοῦ πυρός. ἐγὼ τοίνυν ὁ δικαιότερόν σου πιστευθεὶς ἂν κατὰ πάντα, ὦ Κόνων, ἠθέλησα ὁμῶσαι ταυτὶ, οὐχ

and does not refer to *παίδων*, the sense of the second clause being that Ariston would never dream of taking any *such* oath, by his children's lives, as would be contrary to general usage. Below, he describes himself as *ὁμνύων ὡς νόμιμον*. This conjecture (as well as Sauppe's) has been anticipated by Dobree.

μηδ' εὐορκον.] Isocr. ad Dem. § 23 ἐνεκα δὲ χρημάτων μηδένα θεῶν ὁμόσῃς, μηδ' ἂν εὐορκεῖν μέλλῃς.

κἂν ὅτιοῦν παθῶν πρότερον.] 'Would submit to anything sooner than that,' i.e. rather than swear by an oath contrary to the country's use, or by the lives of his children.

The whole sentence is intended to be descriptive of the character of a man who has a solemn regard for the obligations of an oath; hence the use of *μή*. A person of such a character, says the plaintiff, is more trustworthy than one who is ready to taken any oath you please. The characters contrasted are of course those of the plaintiff and defendant respectively, but this is only implied until we reach the next sentence ἐγὼ...ὁ δικαιότερόν σου πιστευθεὶς ἂν, when the contrast is brought home to the case at issue.

καὶ διὰ τοῦ πυρός.] It is doubtful whether we can explain this of any ordeal by fire like that referred to in Soph. *Antig.* 264, (ἦμιν δ' ἔτοιμοι καὶ μύδρους αἰρεῖν χερσῶν, καὶ πῦρ διέρπειν καὶ

θεοὺς ὀρκωμοτεῖν), and possibly implied in Ar. *Lysistr.* 133, ἀλλ' ἀλλ' ὅ τι βοῦλει, κἂν με χρῇ, διὰ τοῦ πυρός ἐθέλω βαδίζειν, which however may be only a strong metaphor expressive of readiness to endure any amount of torture. Sometimes διὰ πυρός is used of 'braving the extremest perils,' 'going through fire and water' as in Xen. *Symp.* iv. 16, ἐγὼ γ' οὖν μετὰ Κλεινίου κἂν διὰ πυρός λίσσῃ and *Oec.* xxi. 7, ἀκολουθητέον.. καὶ διὰ πυρός καὶ διὰ παντὸς κινδύνου (L. and S., s. v. πῦρ).

In the present passage διὰ τοῦ πυρός possibly contains an allusion to some strange form of self-devotion, one of the *δραὶ δεινὰ καὶ χαλεπὰ* obscurely hinted at in § 38. G. H. Schaefer simply says 'vertam, *vel dum ara ardet*,' i.e. 'one who swears by his children even while the flame is burning on the altar,' and C. R. Kennedy renders the words 'and before the burning altar.'

This is hardly satisfactory, and it is not improbable that the text is corrupt and that we should read καὶ διὰ τοῦ πυρός λόγτος, where the participle would easily have been lost by *homoeoteleuton* with ὁμνούντος.

πιστευθεὶς ἂν.] See on § 1 *ad fin.* For the passive, formed just as if the active were directly transitive, and took the accusative, cf. § 5 παρονομήμενος and § 2 παρανομήσθαι.

ἠθέλησα ὁμῶσαι ταυτὶ.] The



ὑπὲρ τοῦ μὴ δοῦναι δίκην ὧν ἡδίκηκα, καὶ ὁτιοῦν ποιῶν, ὥσπερ σὺ, ἀλλ' ὑπὲρ τῆς ἀληθείας καὶ ὑπὲρ τοῦ μὴ προσυβρισθῆναι, ὡς οὐ κατεπιорκηθισόμενος<sup>†</sup> τὸ πρᾶγμα. λέγε τὴν πρόκλησιν.

## ΠΡΟΚΛΗΣΙΣ.

- 41 Ταῦτ' ἐγὼ καὶ τότε ἠθέλησα ὁμόσαι, καὶ νῦν ὁμνῶ τοὺς θεοὺς καὶ τὰς θεὰς ἅπαντας καὶ ἀπάσας<sup>‡</sup> ὑμῶν ἕνεκα, ὧ ἄνδρες δικασταί, καὶ τῶν περιστηκόντων, ἣ μὴν παθῶν ὑπὸ Κόνωνος ταῦτα ὧν δικάζομαι, καὶ λα- 1270 βῶν πληγὰς, καὶ τὸ χεῖλος διακοπεῖς οὕτως ὥστε καὶ ῥαφῆναι, καὶ ὑβρισθεῖς τὴν δίκην διώκειν. καὶ εἰ μὲν εὐορκῶ, πολλὰ μοι ἀγαθὰ γένοιτο καὶ μηδέποτ' αὐθις τοιοῦτο μηδὲν πάθοιμι, εἰ δ' ἐπιορκῶ, ἐξώλης ἀπολοίμην

<sup>†</sup> κατεπιорκησόμενος Z *cum libris*.

<sup>‡</sup> πάσας Z.

general drift of this oath must have been given by the πρόκλησις which was read to the jury; it is also indicated in the asseverations of § 41.

It is clear that this Challenge was refused by the defendant. The plaintiff would therefore be able to point to this refusal as a fact in his own favour just as the defendant would in the case of the πρόκλησις tendered by him and rejected by the plaintiff (§ 27).—In the next line καὶ emphasizes ὁτιοῦν.

κατεπιорκηθισόμενος.] Dobree's emendation for κατεπιорκησόμενος, the future middle, which if retained, must be taken as passive in sense, 'inasmuch as I am determined not to lose the case by your perjury.' [Or, 'as one who had no idea of having the case decided against him by perjury.' P.] For this use of κατα- cf. καταρραθυμῆν ('to lose by negligence') in Dem. Or. 4 § 7, τὰ κατερραθυμῆμενα

πάλιν ἀναλήψεσθε, and κατεργαδεῖν 'to subdue by charming' (Pl. Gorg. 483 π).

41. τῶν περιστηκόντων.] Aeschin. Ctesiph. § 56 ἀποκρίνομαι ἐναντίον σοι τῶν δικαστῶν καὶ τῶν ἄλλων πολιτῶν ὅσοι δὴ ἐξώθεν περιεστᾶσι, and Dem. de Cor. § 196.

What applies above to private orations of great public importance, applies *mutatis mutandis* to the present speech, which was probably listened to by a considerable body of citizens besides the forty δικασταί before whom this case was apparently tried (see Introduction).

καὶ εἰ μὲν εὐορκῶ—ἐσσεσθαι. Quoted by Aristides (ii. 487 Rhet. Graeci, Spengel) together with the famous adjurations of the speech de Corona (§§ 1 and 141) to exemplify αξιοπιστία brought about by ὅρκοι and ἀρά.

ἐξώλης] fals. leg. § 172, ἐξώλης ἀπολομένη καὶ προώλης εἰ..., and in § 70 (after quoting the solemn form of imprecation used before

αὐτός τε καὶ εἴ τί μοι ἔστιν ἢ μέλλει ἔσεσθαι. ἀλλ'  
 42 οὐκ ἐπιτορκῶ, οὐδ' ἂν Κόνων διαρραγῇ. ἀξιῶ τοίνυν  
 ὑμᾶς, ὧ ἄνδρες δικασταί, πάνθ' ὅσα ἐστὶ δίκαια ἐπι-  
 δείξαντος ἐμοῦ καὶ πίστιν προσθέντος ὑμῖν, ὥσπερ ἂν  
 αὐτὸς ἕκαστος παθὼν τὸν πεποιηκότα ἐμίσει, οὕτως  
 ὑπὲρ ἐμοῦ πρὸς Κόνωνα τουτονὶ τὴν ὀργὴν ἔχειν, καὶ  
 μὴ νομίζειν ἴδιον τῶν τοιούτων μηδὲν ὃ κἂν ἄλλῃ τυ-  
 χὸν συμβαίῃ, ἀλλ' ἐφ' ὅτου ποτ' ἂν συμβῇ, βοηθεῖν  
 καὶ τὰ δίκαια ἀποδιδόναι, καὶ μισεῖν τοὺς πρὸ μὲν τῶν  
 ἁμαρτημάτων θρασεῖς καὶ προπετεῖς, ἐν δὲ τῷ δίκην  
 ὑπέχειν ἀναισχύντους καὶ πονηροὺς καὶ μήτε δόξης  
 μήτε ἔθους μήτ' ἄλλου μηδενοῦ φροντίζοντας πρὸς

the meetings of the βουλή and ἐκκλησία) the orator adds: ἐσχέσθ' ἐξώλη ποιεῖν αὐτὸν καὶ γένος οἰκίαν.

Ariston is here taking an oath almost as strong as that which he finds fault with in Conon; but he would probably plead that he was only swearing 'in the customary manner' ὡς νόμιμον (§ 40).

διαρραγῇ] so. λέγων ὡς ἐπιτορκῶ 'not even if Conon burst with saying that I forswear myself'—or (as we should put it)—'say so till he bursts.' de Cor. § 21 ὃ σὺς κοινωνῶς, οὐχ ὃ ἐμὸς, οὐδ' ἂν σὺ διαρραγῇς ψευδόμενος.

§§ 42—43. This is no private interest of myself alone; Conon will appeal to the compassion of the jury, though the victim of such an outrage deserves their pity, rather than its perpetrators. I therefore claim from the jury the same feeling of resentment against Conon, as each one of them would have felt in his own case.

42. πάνθ'—δίκαια] perhaps = πάντα δίκαια ὅσα ἐστὶ (not πάντα ὅσα δίκαιά ἐστι). If so, we should

read ἐστὶ for ἐστὶ.—πίστιν προσθέντος § 41 alluding to νῦν ὁμνῶν κ. τ. λ.—παθὼν = εἰ ἔπαθεν.

τὴν ὀργὴν ἔχειν.] Or. 21 (Meid.) § 70, εἰ τοίνυν τις ὑμῶν ἄλλως πως ἔχει τὴν ὀργὴν ἐπὶ Μειδίαν ἢ ὡς δέον αὐτὸν τεθνάναι, οὐκ ὀρθῶς ἔχει. P.]

δ—συμβαίῃ] = δ καὶ ἄλλῃ (τυχὸν) συμβαίῃ ἂν 'which might, perchance, happen to another.' For acc. abs. τυχὸν (like παρασχόν, ἐξόν, μετόν, Kühner § 487, 3) Isocr. Paneg. § 171 τυχὸν ἂν τι συνεπέραναν and Dem. de Cor. § 221 ἐπεπείσμη δ' ὑπὲρ ἐμαντοῦ, τυχὸν μὲν ἀναισθητῶν, δμως δ' ἐπεπείσμη.

τὰ δίκαια ἀποδιδόναι.] 'To grant him the claims which are his due;' ἀπο- as in ἀπολαμβάνειν 'to receive one's due,' 'to accept full payment.' See note on Or. 53 § 10.

πρὸς.] Not 'previous to,' but 'in the presence of,' 'at.' [Cf. however Or. 21 (Meid.) § 80 νόμος ἔθεσθε πρὸ τῶν ἀδικημάτων ἐπ' ἀθέλοις τοῖς ἀδικήσουσιν. P.]

μήτε ἔθους...φροντίζοντας.] Cf. § 40 ὧ μὴ νομίζετε.

43 τὸ μὴ δοῦναι δίκην. ἀλλὰ δεήσεται Κόνων καὶ κλαή-  
σει<sup>h</sup> σκοπεῖτε δὴ πότερός ἐστιν ἐλεεινότερος, ὁ πεπον-  
θὼς οἷα ἐγὼ πέπονθα ὑπὸ τούτου, εἰ προσυβρισθεὶς  
ἄπειμι καὶ δίκης μὴ τυχῶν, ἢ Κόνων, εἰ δώσει  
δίκην; πότερον δ' ὑμῶν ἐκάστῳ συμφέρεи ἐξεῖναι τύ-  
πτειν καὶ ὑβρίζειν ἢ μὴ; ἐγὼ μὲν οἶμαι<sup>i</sup> μὴ. οὐκοῦν,  
ἂν μὲν ἀφίητε, ἔσονται πολλοὶ, ἐὰν δὲ κολάζητε  
ἐλάττους.

44 Πόλλ' ἂν εἰπεῖν ἔχοιμι, ὦ ἄνδρες δικασταί, καὶ  
ὡς ἡμεῖς χρήσιμοι, καὶ αὐτοὶ<sup>k</sup> καὶ ὁ πατήρ, ἕως ἔζη,  
καὶ τριηραρχοῦντες καὶ στρατενόμενοι καὶ τὸ προσ-  
ταττόμενον ποιοῦντες, καὶ ὡς οὐδὲν οὐθ' οὗτος οὔτε  
τῶν τούτου οὐδεὶς· ἀλλ' οὔτε τὸ ὕδωρ ἱκανὸν οὔτε I271  
νῦν περὶ τούτων ὁ λόγος ἐστίν. εἰ γὰρ δὴ ὁμολογου-  
μένως ἔτι τούτων καὶ ἀχρηστοτέροις καὶ πονηροτέροις

<sup>h</sup> κλαίσει Ζ.

<sup>k</sup> Bekk.

<sup>i</sup> οἶμαι Ζ.

om. Ζ cum FΣΦ.

43. δεήσεται...καὶ κλαίσει.] Or.  
30 § 32 ἀναβὰς ἐπὶ τὸ δικαστήριον  
ἔδειτο, ἱκετεύων ὑπὲρ αὐτοῦ καὶ  
ἀντιβολῶν καὶ δάκρυσι κλαίων.  
Cf. Or. 53 § 29.—προσυβρισθεὶς  
is further explained by δίκης  
μὴ τυχῶν. See note on § 15,  
ὑβρισθῆναι.

ἢ μὴ] so. ἐξεῖναι, not συμφέρεи.  
The latter would require οὐ.

ἂν μὲν ἀφίητε κ.τ.λ.] Isocr.  
κατὰ Δοχίτου (αἰκίας) § 18, τοὺς  
ἄλλους πολίτας κοσμιωτέροις  
ποιήσετε καὶ τὸν βίον τὸν ὑμέτερον  
αὐτῶν ἀσφαλέστερον καταστή-  
σετε.

§ 44. I might say much of the  
public services of my family, and  
shew that my opponents have  
done you no such service. But  
time would not suffice, nor is  
this the point at issue. For even  
supposing we were ever so in-  
ferior to our opponents, that is

no reason why we should be  
beaten and insulted.

44. χρήσιμοι.] χρήσιμος is al-  
most invariably used with εἰς τι,  
πρός τι, ἐπὶ τι or the simple dat.,  
but is here placed absolutely.

τριηραρχοῦντες.] See Or. 36  
§ 41.

ὡς οὐδὲν] = ὡς κατ' οὐδὲν γέγονε  
χρήσιμος (understood from  
χρήσιμοι above).—On τὸ ὕδωρ,  
see § 36.

τούτων...ἀχρηστοτέροις.] More  
unserviceable, more useless, to  
the state than our opponents.  
For the dat. συνέβαιεν ἡμῖν εἶναι  
ἀχρηστοτέροις cf. § 16 αὐτοληκ-  
θοῖς συγχωροῦμεν εἶναι τοῖς νείσι.  
ἀχρηστος is here contrasted  
with χρήσιμος and, as often in  
the Orators, is used in the same  
sense as ἀρχειός in earlier Greek  
writers.

ἡμῖν εἶναι συνέβαιεν, οὐ τυπτητέοι οὐδὲ ὑβριστέοι  
δήπου ἐσμέν.

Οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν· οἶμαι<sup>1</sup> γὰρ ὑμᾶς  
οὐδὲν ἀγνοεῖν τῶν εἰρημένων.

τυπτητέοι] formed like τυπήσω  
as if from \*τυπτέω, cf. τετυ-  
πτήσθαι in *Argument* l. 2. See  
Excursus (A), *infra*.

οὐκ οἶδ'—εἰρημένων.] The very  
same sentence (with the addition  
of the phrase ἐξέφα τὸ ὕδωρ) oc-  
curs at the close of Or. 36.

A longer speech might appro-

priately have closed with a  
recapitulation and a formal  
peroration; but in the present  
instance neither is necessary.  
Arist. Rhet. III. 13 ὁ ἐπιλογὸς  
ἐστίν οὐδὲ δικανικοῦ (λόγου)  
παντός, οἷον ἐάν μικρὸς ὁ λόγος καὶ  
τὸ πρᾶγμα εὐμνημόνευτον.

### EXCURSUS (A).

*On the defective verb τύπτω (§§ 4, 25, 32, 35, &c.).*

The verb τύπτω forms a familiar paradigm in almost all the elementary Greek Grammars in ordinary use, where, as every schoolboy knows, it is conjugated at full length with its three perfect tenses, its five futures, and its six aorists; and it must be admitted that for the purposes of a paradigm the verb in question is in several respects admirably adapted. Had the selection fallen on a verb ending in -ω with a *vowel* for the last letter of its stem, e.g. λύ-ω, or τιμά-ω, our model verb would have had one aorist only in each voice, ἔλυσα, ἔλυσάμην, ἐλύθην; ἐτίμησα, ἐτιμήσαμην, ἐτιμήθην; had a *verbum primum* ending in -μι been taken, e.g. φη-μί, δίδω-μι, ἵστη-μι, the beginner would have had to face a very complex conjugation at the very outset of his task. τύπτω is unencumbered with the special irregularities of verbs ending in -μι, and has the advantage of two *theoretically possible*

aorists in each voice; indeed, as Veitch has pointed out, it is 'one of the very few verbs that have the second aorist active and passive in actual use,' (though the former is very rare, while in *Attic prose* neither is ever found). Again, as compared with some other *verba impura*, with a *consonant* for their characteristic letter, it has this advantage; that the stem-vowel remains unchanged throughout, and is thus identical in, for instance, the aorist and present participle alike (*τυπ-εις* and *τύπ-τ-ων*), whereas in *λείπω*, *φαίνω*, *τῆκω* as compared with *ἔ-λιπ-ον*, *ἔ-φάν-ην*, *ἔ-τάκ-ην*, the stem-vowels which appear in the aorist have suffered modification in the present; also the consonantal relations between the different tenses are simpler than in the case of some other verbs; thus, while  $\beta$  in *ἔ-βλάβ-ην* becomes  $\pi$  in *βλάπ-τ-ω*, no such alteration is necessary in passing from the *-τυπ-* of the second aorist to the strengthened form *τυπτ-* of the present.

The verb is not without an interest of its own in the history of grammar; and though it may be rash to conjecture whether it owed its first selection to the grim humour of some *plagiosus Orbilius* of old times, intent on bringing each tense's meaning home to his pupils' memories by the help of his ferule, it may be interesting to note that this particular paradigm is found in the early Greek Grammars which appeared in Italy at the revival of learning, as for instance in the *Erotemata* of Chrysoloras, a distinguished scholar, who (in the dedication of a copy in my possession, printed at Venice at the Aldine press in 1517) is described as *Manuel Chrysoloras, qui primus Iuniorum reportavit in Italiā literas græcas*\*. The paradigm may also be traced still further

\* On Chrysoloras, see Mullinger's *History of the University of Cambridge*, pp. 391—396, where the *Erotemata* is called 'the

back to the Canons of Theodosius, an Alexandrine grammarian of the age of Constantine the Great, who expounds all the parts, regardless of usage, and at considerable length (viz. on pp. 1008—1044 of Θεοδοσίου γραμματικῷ εἰσαγωγικοὶ κανόνες περὶ κλίσεως ῥημάτων in Bekker's *Anecdota Græca*, vol. III.) The Grammar of Theodosius is in its turn founded on that of a more celebrated Greek scholar, Dionysius the Thracian, who taught at Rome in B.C. 80. The *τέχνη γραμματικὴ* of the latter is a short work, occupying only pp. 629—643 in Bekker's *Anecdota Græca*, vol. II.; it was a standard text-book for many centuries and is the original basis of all subsequent grammars. I quote a few words from chap. xv, which bear on our present subject: διαθέσεις δὲ εἰσι τρεῖς, ἐνέργεια, πάθος, μεσότης· ἐνέργεια μὲν οἷον τύπτω, πάθος δὲ οἷον τύπτομαι, μεσότης δὲ ἢ ποτὲ μὲν ἐνέργειαν, ποτὲ δὲ πάθος παριστώσα, οἷον πέποιθα, διέφθορα, ἐποιησάμην, ἐγραψάμην\*. Shortly after, he proceeds: ἀριθμοὶ δὲ τρεῖς, ἐνικός, δυϊκὸς καὶ πληθυντικός· ἐνικός μὲν οἷον τύπτω, δυϊκὸς δὲ οἷον τύπτέτον, πληθυντικός δὲ οἷον τύπτομεν· πρόσωπα δὲ τρία, πρῶτον, δεύτερον, τρίτον· πρῶτον μὲν οἷον τύπτω, δεύτερον οἷον τύπτεις, τρίτον οἷον τύπτει.

But however well this verb may be adapted as a typical form for the beginner, and however interesting it may be as a tradition of the earlier grammarians, it can-

Greek Grammar of the first century of the Renaissance.' 'It served Reuchlin for a model at Orleans, was used by Linacre at Oxford and Erasmus at Cambridge, and long continued to hold its ground against formidable rivals,' p. 395. The date of his arrival in Italy was 1396. The Aldine edition above referred to is of course a reprint.

\* It is quoted *ἐνψάμην* in Graefenhan, *Geschichte der Classischen Philologie*, II. p. 481, q. v.; but Dionysius appears in the rest of the chapter to confine himself to *tenses in actual use* and is therefore likely to have avoided *ἐνψάμην*.

not be too clearly understood that very few of the tenses are really used by the best Greek authors. The tenses given in the paradigm are all formed regularly on the principles of *analogy* alone, regardless of the opposite principles of *anomaly* which prevail in the usage of the Greek writers themselves. In *Attic Prose* none of the tenses given in the grammars are found except the present and imperfect, active and passive, τύπτω and ἐτυπτον, τύπτομαι and ἐτυπτόμην. The future active is not τύψω but τυπτήσω, and the aorists in use are borrowed from other verbs, and are really ἐπάταξα and ἐπλήγην. ἐτυψα is never found in Attic Prose, and the reference to Lysias, *fragment* 10, 2, given in Veitch's *Greek Verbs*, and repeated, apparently without verification, in Liddell and Scott's *Lexicon*, supplies us with no real exception. The passage, when examined, proves to be part of an exposition by the late rhetorician Theon (*Progymnasmata* 2 p. 165) of a possibly genuine speech of Lysias. The words are ἐγκύμονά τις ἐτυψε κατὰ γαστρός καὶ κρίνεται φόνου, where Lysias himself would undoubtedly have written ἐπάταξεν, as is proved by a passage in Or. 13 § 71, ὁ Θρασύβουλος τύπτει τὸν Φρύνιχον καὶ καταβάλλει πατάξας. The following passages will further illustrate the prose usage of this defective verb, Lysias, Or. 4 § 15, πότερον ἐπλήγην ἢ ἐπάταξα; id. Or. 1 §§ 25—27, where πάταξας καταβάλλω is followed by the corresponding passive forms πληγείς κατέπεσεν, Dem. Or. 4 § 40, ὁ πληγείς κἀν ἐτέρωσε πατάξῃς, Thuc. VIII. 92, ὁ Φρύνιχος πληγείς followed by ὁ πατάξας διέφυγεν. Again in Plato's *Lysis*, p. 879 D—E, we have τύπτοντα and τύπτειν followed by πατάξαι, and soon after, τύπτει τῇ μάστιγι followed by ὅσας ἂν αὐτὸς πατάξῃ: so in p. 880 B, εἰάν τις τύπτῃ τὸν πρεσβύτερον...τῇ τοῦ πληγέντος ἡλικίᾳ, and in p. 882 the last two forms occur twice over. Cf. Aristot. *Eth.* v. 4. 4, ὅταν ὁ μὲν πληγῇ ὁ δὲ πατάξῃ,

ὁμοῖα καὶ εἰ ἰσχυρὸς ἀσθενῇ πατάξει ἢ πληγῆναι προκαλέσαιτο, *Éth.* v. 5. 4, εἰ ἀρχὴν ἔχων ἐπάταξεν, οὐ δεῖ ἀντιπληγῆναι, καὶ εἰ ἀρχοντα ἐπάταξεν, οὐ πληγῆναι μόνον δεῖ ἀλλὰ καὶ κολασθῆναι. *Rhet.* i. 15, 29, πατάξει ἢ πληγῆναι, *de anima* B, 8, p. 419 b 15, τὸ τύπτον καὶ τὸ τυπτόμενον... ἂν πληγῇ, p. 420 a 24, οὐ δὴ πᾶν ψοφεῖ τυπτόμενον καὶ τύπτον, οἷον ἐὰν πατάξῃ βελόνη βελόνην, p. 423 b 16, πληγείσα ἐπάταξεν, *Soph. Elench.* p. 168 a 6 ἂν τις τύπτῃ τοῦτον καὶ τοῦτον, ἄνθρωπον ἀλλ' οὐκ ἀνθρώπους τυπτήσῃ, and *Meteorologica*, p. 368 a 18, τύπτων...τύπτον...τύπτεται, p. 371 b 10, ἣ μέλλει πατάξῃ, κινεῖται πρὶν πληγῆναι, while three lines below we find δ' ἐὰν πατάξῃ.—Among other parts similarly borrowed we have πέπληγα, πέπληγμα, πεπλήξομαι and πληγήσομαι.—So in Latin, *ferio*, *percussui*, etc.

But one of the best studies on this point of usage is the Speech of Demosthenes κατὰ Κόνωνα, where we find the following forms; in § 81 τύπτειν, in § 17 τύπτων, in § 4 ἔτυπτον, in §§ 32 and 35 τυπτόμενον, with the verbal τυπτητός in § 44. Again in § 31 we have πατάξει (not τύψαι or πλῆξαι), and in § 33 ἐπλήγην (not ἐπατάχθην, or ἐτύπην, much less ἐτύφθην). Further in § 25 πατάξαντι stands side by side with τύπτειν; and lastly we have the phrases πληγὰς ἐνέτειναν (§ 5) and εἰληφέναι καὶ δεδωκέναι πληγὰς (§ 14), which assist in making up for the defective tenses. It is reserved for the late writer who composed the *Argument* to use the unclassical form *τετυπτήσθαι*.

For the usage of this verb in Attic Verse, see Veitch's excellent book on *Greek Verbs*, where it will be noticed that almost the only part used besides those found in Prose is τυπείς; the student should also read the interesting criticisms of Cobet in pp. 330—343 of his *Variae lectiones*.



## EXCURSUS (B).

*On the quantity of ἔμπος (Or. 54 § 12).*

In Soph. *Phil.* 1378, the phrase ἔμπος βάσις is used with reference to the festering foot of Philoctetes, but the position of the words, at the end of an iambic line, leaves the quantity undetermined. This may however be ascertained (i) by the accent of the word from which it is derived, viz. πύον, which according to the express statement of the grammarian Arcadius should never be written πῦον; (ii) by the fact that Empedocles makes the first syllable of πύον short. We may further notice that the adjective and its derivatives occur (as might be expected) not unfrequently in Hippocrates and the medical writers; and that one of these, Galen (lib. xiii. p. 876), quotes in full an Elegiac poem in which Andromachus the elder, in describing the virtues of his potent antidote, or θηριακή δι' ἐχιδνῶν, has the following couplet, which determines the quantity of the word:

καὶ μογερῶν στέρνων ἀπολύσεται ἔμπυον ἱλύν  
πυνομένη πολλοὺς μέχρ' ἐπ' ἡέλιους.

Hence we conclude that the lexicons of Liddell and Scott, and of Dr Pape (in their latest editions), are unwarranted in marking the penultimate as long;—an oversight which does not occur in the fourth edition of the former lexicon, and is doubtless due to a confusion between the quantities of τὸ πῦον, the Latin *pūs*, and ὁ πῦός, the Lat. *colostra* (or beestings).

## EXCURSUS (C).

*On the meaning of αὐτολήκυθος (Or. 54 § 14).*

The exact meaning of this word is difficult to determine, and the Grammarians content themselves with giving us a wide choice of conflicting explanations. Harpocration, for instance, has the following article.

Αὐτολήκυθοι: Δημοσθένης κατὰ Κόνωνος, (1) ἥτοι ἀντὶ τοῦ εὐζώνους τινὰς καὶ ἐτοίμους πᾶν ὅτιοῦν ποιεῖν καὶ ὑπομένειν, (2) ἢ ἀντὶ τοῦ πένητας καὶ μηδὲν ἄλλο κεκτημένους ἢ ληκύθους, (3) ἢ αὐτουργούς, (4) ἢ ἀντὶ τοῦ εἰς πληγὰς ἐτοίμους καὶ ὅλον τύπτοντας καὶ μαστιγοῦντας καὶ ὑβρίζοντας, (5) ἢ λέγοι ἂν τοὺς ἐκ προχείρου διδόντας ἀργύριον....

He further states that Menander used the word in two of his comedies, and attempts to support the last of the above interpretations by shewing from Diphilus, that money was occasionally carried about in the λήκυθος: and the last but one by appealing to Menander for the fact that the thong or strap (ἱμᾶς) by which the λήκυθος was suspended about the person might be detached from the flask and used as a whip. None of these five explanations is convincing and the last two are almost certainly wrong. An indication of the true meaning may however be gathered from the second. Any respectable Athenian in going to the public baths would be naturally attended by his slave carrying the master's λήκυθος or oil-flask, &c. Compare, for the Roman custom, Varro *R. R.* i. 55. 4 (*Olea*) *dominum in balnea sequitur*. The fraternity of young men alluded to in the text, may have gone on the principle of discarding the attendance of their slaves and carrying their own λήκυθοι, either to be free from the slight restraint which the company of their servants might put upon their practical jokes and wild escapades, or by way of assuming a lower grade of respectability than their birth would warrant, and availing themselves of that disguise either as a mere freak of youthful pleasantry or as a cloak for acts of outrage and disorder. If this view is tenable, the general sense of the title may be kept up by some such rendering as 'gentleman beggars,' 'amateur tramps.'

This explanation is in part confirmed by one of the guesses recorded in Bekker's *Anecdota Graeca* 465, 17

where αὐτολήκυθος is explained ὁ πένης ἀπὸ τοῦ ἐαυτῷ τὰς ληκύθους εἰς τὰ βαλανεία εἰσφέρειν. Again, Hesychius has αὐτολήκυθοι· οἱ πένητες, οἱ μόνην λήκυθον ἔχοντες· ἡ δὲ ἐαυτῶν βαστάζοντες τὴν λήκυθον, οὐ δι' οἰκετῶν. Pollux, x. 62, refers to the passage in Demosthenes, and quotes a parallel from the comic poet Antiphanes, Meineke *Com. Graec. fragm.* III. 7 καὶ αὐτολήκύθους δέ τινες Δημοσθένης ἐν τῷ κατὰ Κόνωνος ὀνομάζει οὓς σαφέστερον αὖ τις ἐν τῷ Ἀντιφάνους Ἀθάμαντι κεκληῖσθαι λέγοι·

χλαμύδα καὶ λόγχην ἔχων

ἄξυνακόλουθος ξηρὸς αὐτολήκυθος.

As another nickname attaching to one of these Clubs we have Τριβαλλοὶ in § 39; and in Athenaeus a coterie of Athenian wits is mentioned in the time of Philip of Macedon and therefore nearly coincident in date with the Clubs in the text; these wits or γελωτοποιοί went by the name of 'the sixty,' (Athen. xiv. 614). Cf. also Lysias, *fragm.* 53, κατὰ Κινησίον: σὺ μετὰ τούτου ποτὲ Ἀπολλοφάνης καὶ Μυσταλίδης καὶ Δυσίθεος συνεισιτῶντο, μίαν ἡμέραν ταξάμενοι τῶν ἀποφράδων, ἀντὶ νομηνιαστῶν κακοδαίμονιστάς σφίσιν αὐτοῖς τούνομα θέμενοι;

### EXCURSUS (D).

*On the Τριβαλλοὶ of Or. 54 § 39.*

The Triballi were a wild Thracian people occupying the region north of the range of Haemus and south of the Danube, now known as Servia. Their character is often described in unfavourable terms: thus Isocrates (*de pace* § 50) speaks of their δυσγένεια as opposed to the εὐγένεια of Athens, and (*Panath.* § 227) denounces them as leagued against all their neighbours: πάντες φασιν ὁμοοεῖν μὲν (τοὺς Τριβαλλοὺς) ὡς οὐδένας ἄλλους ἀνθρώπους, ἀπολλύναι δ' οὐ μόνον τοὺς ὁμόρους καὶ τοὺς πλησίον οἰκοῦντας ἀλλὰ καὶ τοὺς ἄλλους ὅσων ἂν ἐφικέσθαι δυνήθωσιν. Lastly the

comic poet Alexis (who flourished in B.C. 356, a date but slightly anterior to the present speech) attacking, apparently, some rude and uncivilised custom, describes it as too barbarous even for the Triballi, οὐδ' ἐν Τριβαλλοῖς ταῦτά γ' ἐστὶν ἔθνος | οὐ φασὶ τὸν θύοντα τοῖς κεκλημένοις | δείξαντ' ἰδεῖν τὸ δαίπνον, εἰς τὴν αὔριον | πωλεῖν ἀδείπνοις ἅπερ ἔθγκ' αὐτοῖς ἰδεῖν (ap. Athen. xv. p. 671). Cf. *Ar. Aves* 1530.

According to the speaker, Conon and his two companions were, as mere striplings (*μευράκια*), known by a name borrowed from these lawless Triballi. Now if the speech was (as is very probable) delivered in B. C. 341 (see note on § 3 ἔτος τρίτον) when Conon was rather more than 50 years of age (§ 22), he would be a *μευράκιον*, or about 15 years of age, 35 years previous, viz. B.C. 376. By a coincidence which has apparently remained unnoticed, this brings us to the very year in which the wild Triballi crossed the Haemus with a strong force, ravaged the southern coast of Thrace near Abdera and were forced to retreat by the Athenian commander Chabrias (Diodor. xv. 36). The name of the barbarous tribe would therefore be on the lips of all Athens during the youth of Conon and his friends, and would readily find currency as a slang term of the day.

We may compare with the Τριβαλλοὶ, the disorderly Clubs to which Conon's son belonged, the *ἰθύφαλλοι* and *αἰτολήκυθοι* of § 14; and we may suggest in passing that the special form of the appellation, apart from its general applicability, probably turned on a play of words (*e.g.* *τρίβειν τοὺς ἄλλους* or others more or less obvious). Cf. Photius *s.v.* (quoting this passage) οἱ ἐν τοῖς βαλανείοις ἀναγώγως διατριβόμενοι...οἱ δὲ τοὺς εἰκαίους καὶ τοὺς βίους κατατρίβοντας. Hesychius (*inter alia*) οἱ ἐπὶ τὰ δαίπνα ἐαυτοὺς καλοῦντες. The *Scholía* on Æschines i. § 52 (τούσδε

τοὺς ἀγρίους ἄνδρας) couple together Τριβαλλοὶ (cf. Plin. *N. H.* vii. 2) and Κένταυροι as infamous appellatives, and lastly the comic poet Eubulus (fl. B. C. 375) has the line Τριβαλλοποπανόθρεπτα μειρακύλλια.

As an exact parallel to the Triballi in the text and the other clubs already mentioned, we have in English literature the 'nocturnal fraternity of the Mohock-club,—a name borrowed from a sort of cannibals in India' (*i. e.* North America). The practical jokes of that 'worthy society of brutes,' and 'well-disposed savages,' will be familiar to the readers of the *Spectator* (Nos. 324, 332 and 347; *anno* 1712). Cf. also Gay's *Trivia* iii. 325—328:

Who has not heard the *Scourer's* midnight fame?  
Who has not trembled at the *Mohock's* name?  
Was there a watchman took his hourly rounds,  
Safe from their blows, or new-invented wounds?

As German parallels we have the names *Polacken*, *Tartaren*, *Husaren*, and *Kroaten* (quoted by Reiske); similarly in French, *Cosaques* and *Pandours* (mentioned by M. Dareste).

ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ ΠΕΡΙ ΧΩΡΙΟΥ.

ΤΠΟΘΕΣΙΣ.

Καλλικλῆς, πρὸς ὃν ὁ λόγος, καὶ ὁ τὴν δίκην ὑπ  
 ἐκείνου φεύγων<sup>a</sup> γείτονες ἦσαν ἐν χωρίῳ, ὁδῷ μέσῃ  
 διειργόμενοι. δυσομβρίας<sup>b</sup> δὲ συμβάσης, εἰς τὸ Καλ-  
 λικλέους χωρίον ὕδωρ ἐμπεσὼν ἐκ τῆς ὁδοῦ κατελυμή-  
 5 νατο. ἐπὶ τούτῳ διώκει βλάβης τὸν γείτονα· εἶναι  
 γάρ φησιν ἐν τῷ Τισίου<sup>c</sup> χωρίῳ χαράδραν εἰς ὑπο-  
 δοχὴν τοῦ ὕδατος τοῦ ἐκ τῆς ὁδοῦ ποιηθείσαν, ἣν ἀποικο-  
 δομήσαντα<sup>d</sup> νῦν αἰτίαν<sup>d</sup> ἑαυτῷ βλάβης γενέσθαι.  
 ὁ δὲ τοῦ Τισίου<sup>e</sup> παῖς πρῶτον μὲν παλαιὸν καὶ οὐ δι'  
 10 ἑαυτοῦ τὸ ἔργον δέικνυσιν· ζῶντος γὰρ ἔτι καὶ τοῦ  
 Καλλικλέους πατρὸς ἀποικοδομηθῆναι τὴν χαράδραν  
 φησὶν ὑπὸ τοῦ Τισίου· ἔπειτα συνίστησιν ὥς οὐδὲ  
 χαράδρα τις τὸ χωρίον ἐστί<sup>o</sup>. διασύρει δὲ καὶ τὴν

<sup>a</sup> διωκόμενος Z coniecit Saupprius. διώκων libri. φεύγων Bekker cum H. Wolfio.

<sup>b</sup> ἐπομβρίας Z et Bekker stereo. Leipsig ed. 1855. (habet Σ in margine non modo δυσομβρίας quod nusquam alias legitur, sed etiam ἐπομβρίας quod occurrit infra § 11, γενομένης ἐπομβρίας). δηωβρίας Kerrich ms. δηβρίας B. δυοβρίας Bekk. (Berlin ed.).

<sup>c</sup> σῆριον (sic) Kerrich ms.

<sup>d</sup> ἀποικοδομήσαντα νῦν αἰτίαν Bekk. (Berlin ed.) ἀποικοδομηθεῖσαν νῦν αἰτίαν Bekk. (st. Leipsig ed.).

<sup>e</sup> οὐδὲ χάραδρα τις ἀλλὰ χωρίον ἐστὶ Σ in margine (cf. § 12 ἀποδείξω χωρίον ὃν τοῦτ' ἀλλ' οὐ χάραδραν).

Argument line 12. συνίστησιν] seems to mean 'he joins issue.' Perhaps ἐνίστησιν, 'he objects,' P.] The word is used in late Greek in the sense 'to give

proof of,' e.g. Polyb. iii. 108, 4, ἐπειράτο συνιστάνειν δι... We may therefore perhaps render it 'he attempts to prove.'

line 13. διασύρει.] makes light

συμβᾶσαν τῷ Καλλικλείῳ βλάβην ὡς μικρὰν καὶ  
 15 οὐκ ἀξίαν τηλικαύτης δίκης, καὶ τὸ ὅλον ἡδίκησθαι  
 μὲν οὐδὲν φησι τὸν Καλλικλέα, ἐπιθυμεῖν δὲ τῶν  
 χωρίων τῶν ἑαυτοῦ καὶ διὰ τοῦτο συκοφαντίας μηχαν-  
 νᾶσθαι πάσας.

1 Οὐκ ἦν ἄρ', ὦ ἄνδρες Ἀθηναῖοι, χαλεπώτερον οὐ- 1272  
 δὲν ἢ γείτονος πονηροῦ καὶ πλεονέκτου τυχεῖν, ὅπερ  
 ἐμοὶ νυνὶ συμβέβηκεν. ἐπιθυμήσας γὰρ τῶν χωρίων  
 μου Καλλικλῆς οὕτω διατέθεικέ με συκοφαντῶν ὥστε  
 πρῶτον μὲν τὸν ἀνεψιὸν τὸν ἑαυτοῦ κατεσκεύασεν  
 2 ἀμφισβητεῖν μοι τῶν χωρίων, ἐξελεγχθεὶς δὲ φανερώς  
 καὶ περιγενομένου μου τῆς τούτων σκευωρίας πάλιν  
 δύο δίκας ἐρήμους μου κατεδιητήσατο, τὴν μὲν αὐτὸς  
 ἱ αὐτῷ Καλλικλῆς (male) Kerrich ms.

of the damage done. See §§ 23—26. Dem. Or. 13 § 12 διέσυρε ('depreciated') τὰ παρόντα καὶ τοὺς προγόνους ἐπῆνεσε.

§§ 1, 2. *There is really no greater nuisance, gentlemen, than a greedy neighbour, as I have found to my cost in the case of the plaintiff Callicles. He has set his heart upon my property, and has therefore by every legal means, direct or indirect, made me the victim of a vexatious persecution.*

*Though I am no speaker myself, yet, if the court will give me their attention, the facts themselves will prove the baseness of the present action.*

1. οὐκ ἦν ἄρ'—τυχεῖν.] For οὐκ ἦν ἄρ', 'there is not really after all,' cf. Soph. O. C. 1697, πόθος καὶ κακῶν ἄρ' ἦν τις, and for this use of ἦν, especially with ἄρ', to express a fact which is and always has been the same, see the examples given in Liddell and Scott, s.v. εἶμι, F.

For the general sense, cf.

Hesiod's *Works and Days* 845, πῆμα κακὸς γείτων.

συκοφαντῶν.] 'by his vexatious litigation, his petty persecution,' The word is always difficult to render, and we have generally to be guided by the context for the exact equivalent in English.

κατεσκεύασεν.] 'suborned his cousin to claim it from me.' The verb, here followed by the infinitive, most commonly takes an accusative, e.g. § 84 τὸν ἀνεψιὸν κατεσκεύασε, Or. 54 § 14.

2. σκευωρίας.] 'intrigue, jobbery.' Or. 36 § 33 πλάσμα καὶ σκευώρημα.

δίκας ἐρήμους—κατεδιητήσατο.] 'got two awards (in arbitration) decided against me by default (for non-appearance). Or. 21 (Meid.) §§ 84, 85, (Στράτων ὁ δαιτητής) ὡς οὐτ' ἐγὼ συνεχώρουν οὐθ' οὗτος (Meidias) ἀπῆντα, τῆς δ' ὥρας ἐλίγνετο ὅψέ, κατεδιήτησεν. ἥδη δ' ἐσπέρας οὐ- σης καὶ σκότους ἐρχεται Μειδίας

χιλίων δραχμῶν, τὴν δὲ τὸν ἀδελφὸν τουτονὶ πείσας Καλλικράτην\*. δέομαι δὴ πάντων ὑμῶν ἀκούσαι μου καὶ προσέχειν τὸν νοῦν, οὐχ ὡς αὐτὸς δυνησόμενος εἰπεῖν, ἀλλ' ἵν' ὑμεῖς ἐξ αὐτῶν τῶν πραγμάτων καταμάθῃτε ὅτι φανερώς συκοφαντοῦμαι.

- 3 Ἐν μὲν οὖν, ὧ ἄνδρες Ἀθηναῖοι, πρὸς ἅπαντας τοὺς τούτων λόγους παρέχομαι δίκαιον. τὸ γὰρ χωρίον τοῦτο περιφκοδόμησεν ὁ πατήρ μικροῦ δεῖν πρὶν ἐμὲ γενέσθαι, ζώντος μὲν ἔτι Καλλιππίδου τοῦ τούτων<sup>δ</sup>

\* Bekker (Berlin ed.).

Καλλικρατίδην Z et Bekker (st. Leipsig ed.). καλλικρατίδην ZB et γρ. FΦ.

<sup>b</sup> Bekk.

τούτου Z cum Σ.

...καὶ καταλαμβάνει τὸν Στρά-  
ωνα ἀπὸ τῆς ἡδῆ, τὴν ἔρημον  
δεδοκῆτα. τὸ μὲν οὖν πρῶτον  
οὕτως τ' ἢ πείθει αὐτὸν, ἢ κα-  
ταδειγνύεται, ταύτην ἀποδε-  
ιγνύμενην ἀποφέρειν.

ἔρημος in Attic has usually  
two terminations only: hence  
ἐρήμους δικας, which was per-  
haps preferred to ἐρήμας δικας  
on grounds of euphony. In §  
6 however we find ἐρήμην κατε-  
δειγνύσασθε, possibly to avoid  
the ambiguity arising from the  
ellipsis of δικῆν, and in § 81 we  
have ἐρήμην μου καταδειγνύεται  
τοιαύτην ἑτέραν δικῆν.

τὴν μὲν χιλίων.] The same  
suit is described in § 81 (quoted  
in last note) as similar to the  
suit in which this speech is  
spoken. The damages in the  
latter are also fixed at 1000  
drachmae, § 25.

πείσας] sc. καταδεικνύσας.

Καλλικράτην.] On the part  
taken in these lawsuits by Cal-  
licrates, the brother of the  
plaintiff Callicles, see A. Schae-  
fer, *Dem. und seine Zeit* III. 2,  
p. 254 note.

§§ 3—7. (My opponents bring  
an action for damages on the

ground that the building of a  
wall enclosing my property has  
stopped a water-course, and thus  
diverted the drainage of the  
surrounding hills on to the pro-  
perty of the plaintiff on the op-  
posite side of the road).

In answer to all their argu-  
ments, I have simply to plead  
that my father built that wall  
fifteen years before his death,  
without any objection, formal or  
informal, on the part of the  
plaintiff's family, who are now  
attempting to take advantage of  
my youth and inexperience.

I also challenge them to prove  
the existence of the alleged water-  
course (§ 6).

8. δίκαιον.] 'a fair and  
legal plea.' Or. 54 §§ 27, 29,  
42.

γὰρ.] See note on Or. 53 § 4.  
—ὁ πατήρ, sc. Tisias § 5.—μικ-  
ροῦ δεῖν πρὶν, 'almost before,'  
(i. e. 'a very short time after')  
I was born; not 'within a little  
before,' 'just before.'

Καλλιππίδου τοῦ τούτων πατρὸς.]  
The two sons Καλλικλῆς and  
Καλλικράτης bear names similar  
to their father's, Καλλικλῆς,  
all three being compounds of



πατὴρ καὶ γειτνιώντος, ὃς ἀκριβέστερον ἦδει δῆπου  
 τούτων, ὄντος δὲ Καλλικλέους ἀνδρὸς ἡδὴ καὶ ἐπιδη-  
 4 μούντος Ἀθήνησιν· ἐν δὲ τούτοις τοῖς ἔτεσιν ἅπασιν  
 οὐτ' ἐγκαλῶν οὐδεὶς πώποτ' ἦλθεν οὔτε μεμφόμενος  
 (καίτοι δῆλον ὅτι καὶ τόθ' ὕδατα πολλάκις ἐγένετο<sup>ο</sup>),  
 οὐτ' ἐκάλυπεν ἐξ ἀρχῆς, εἴπερ ἡδίκηει τινα περιουκοδο- 1273  
 μῶν ὁ πατὴρ τὸ ἡμέτερον χωρίον, ἀλλ' οὐδ' ἀπηγόρευ-  
 σεν οὐδὲ διεμαρτύρατο, πλέον μὲν ἢ πεντεκαίδεκ' ἔτη  
 τοῦ πατρὸς ἐπιβιούντος, οὐκ ἐλάττω δὲ τοῦ τούτων

<sup>ο</sup> *Z et Bekk.* (st. Leipsig ed.). ἐγένετο Bekk. (Berlin ed.).

καλλος. 'Thus we have *Ναυσίφλος* *Ναυσικίου*, and *Καλλίστρατος* *Καλλικράτους*. So also brothers' names sometimes varied but slightly, as *Diodotus* and *Diogeiton*' (Becker's *Charicles* p. 220 Eng. ed.).

ἀνδρὸς ἡδῆ.] Having attained to man's estate and being resident at Athens, Callicles might have brought an action long ago, if he felt himself aggrieved. P.]

4. καίτοι—ὕδατα πολλάκις ἐγένετο.] 'and yet of course it often rained then, just as it does now,'—a touch of quiet humour characteristic of this speech. (ὕδωρ γενέσθαι literally refers to *rain*, though floods are implied as a necessary consequence. *Ar. Vesp.* 265, δαίται ..... ὕδωρ γενέσθαι κάπιπτεῖναι βόρειον αὐτοῖς.)

ἐπερ ἡδίκηει.] (As he would have done) if my father was wronging any one... (But he did *not* prevent him; and not only so,) but &c. P.]

ἀπηγόρευσε.] 'forbade.' In Classical Greek, ἀγορεύω and its compounds are seldom found except in the present and imperfect tenses; the remaining tenses and the verbal deriva-

tives being generally borrowed from ἐρῶ, εἶπον, εἶρηκα, εἶρημαι, ἐρρήθην, ρηθήσομαι, with ῥήσις, ῥῆσις, ῥητέον. Thus ἀναγορεύω (to proclaim) has for its imperfect ἀπηγόρευον, while the correct forms for the other parts are, ἀνερῶ, ἀνείρηκα, ἀνείπον, ἀνερρήθην and ἀνάρρησις &c., instead of ἀναγορεύσω... ἀπηγόρευσις &c. The strict rule, however, as to this verb and its compounds, has its exceptions, in the case of προσαγορεύω and partially also in ἀπαγορεύω. Thus instead of the more usual ἀπαίπε, we here find ἀπηγόρευσε, which also occurs in *Dem. Or.* 40 § 44 ἀπηγόρευσεν αὐτῷ μὴ δαιτῶν and *Arist. Oecon.* ii. 24; *Plat. Theaet.* p. 200, ἀπαγορεύσης. In *Ar. Pax* 107 we have καταγορεύση. (See Cobet's *variae lectiones* p. 35–39 and *novae lectiones* p. 778; also *Veitch, Greek Verbs* p. 10, ed. 1871.)

διεμαρτύρατο.] 'formally protested.' *Or.* 33 § 20, διαμαρτυραμένου τοῦ ἀνθρώπου ἐναντίον μαρτύρων.

ἐπιβιούτος.] Sense and usage alike shew that this, though at first sight an ambiguous form, is certainly aorist, and not present. Cf. § 32, ἐπεβίω, which

5 πατρός Καλλιππίδου. καίτοι, ὦ Καλλίκλεις, ἐξῆν δὴ-  
που τόθ' ὑμῖν, ὁρᾶσιν ἀποικοδομουμένην τὴν χαρά-  
δραν, ἐλθοῦσιν εὐθὺς ἀγανακτεῖν καὶ λέγειν πρὸς τὸν  
πατέρα "Τισία, τί ταῦτα ποιεῖς; ἀποικοδομεῖς τὴν χα-

also occurs in Thuc. ii. 65, (of Pericles) *ἐπεβίω δύο ἔτη καὶ μήνας ἐξ καὶ ἐπειδὴ ἀπέθανεν* κ.τ.λ. So also Or. 41 §§ 19 and 18, *ἐπιβιούτος μετὰ ταῦτα πλείον ἢ πένθ' ἡμέρας*. The first person *ἐπεβίω* is naturally rare, as the aorist of this verb is mainly applicable to those who are no longer living; but Thuc. v. 26, has, *ἐπεβίω δὲ πάντος (τοῦ πολέμου)*. In Attic Greek *ἐβίω*, like *βιώσσομαι*, *βέβιωκα* and *βεβιωμένος* is used to supplement the defects of *ζῆν*, which is itself hardly used except in the present and imperfect active. *ζῆσω* is very rare. (See Cobet, *variae lect.* p. 610).

5. *ἐξῆν*.] As usual, without *δν*. See note on *ἐχρῆν* Or. 45 § 17, followed, as here, by *ὦα* with the indicative.

*ὕμν*.] 'You and yours,' i.e. your father, your brother and (when at home, and not at Athens § 8) yourself. *ὕμεις* never stands for *σὺ*, and it has been shewn elsewhere that the passages quoted from Isocrates to prove the contrary will not bear examination (Isocr. ad Dem. § 2). So also, in Eur. Bacch. 252, *ἀναινομαι πάτερ | τὸ γῆρας ὕμῶν εἰσορῶν τοῦν οὐκ ἔχον*, the plural *ὕμῶν* refers to Cadmus and Teiresias, not to the former only; and in Homer, Odys. xii. 81, we have *ἦ περ ἄν ὕμεις νῆα παρὰ γλαφυρὴν ἰθύνετε, φαίδιμ' Ὀδυσσεῦ*, where *ὕμεις* refers to Odysseus and his comrades.

In Latin however the rule is

perhaps less strictly kept, and *vester* appears to be used for *tuus* in Catullus 71, 3, *Aemulius iste tuus qui vestrum exercet amorem*, probably the only instance of this exceptional use of plural for singular. The rule is only apparently broken in Virg. Aen. ix. 525, *Vos, o Calliope, precor, aspirate canenti*. Here *vos* refers to all the Muses, though Calliope alone is mentioned. (Cf. Aen. i. 140, *vestras, Eure, domos*.) So too Cicero *pro Deiot.* § 29, *vos vestra secunda fortuna, Castor, non potestis sine propinquorum calamitate esse contenti?* (The plural *vos* is at once explained by *felix ista domus* in the previous sentence.)

*τὴν χαράδραν*.] The word is not only used of the torrent itself, but also of the channel cut by the torrent's course (der. *χαράσσω*). Hesychius *χαράδρα· χειμαρρος ποταμός. κατὰ γὰρ δὲ οὗτος παντοῖα ἐν τῷ ρεύματι καὶ κατασφύει. χαράδραι· αἱ χαράξεις τοῦ ἐδάφους. καὶ οἱ κοῖλοι τόποι ἀπὸ τῶν καταφερομένων ὀμβρίων ὑδάτων*. The rendering 'water-course' will suit all the passages in which it occurs in the present speech.

*τί ταῦτα ποιεῖς*.] Not 'why are you doing this?' but 'what is this that you are doing?' 'Are you cutting off, stopping, the water-course?'

*ἀποικοδομεῖς*.] ἀπὸ τοῦ ἀποφράττεις ἀπολαβόντινα (?) οἰκοδομήματι. Δημοσθένης ἐν τῷ πρὸς Καλλικλέα. The above expla-

“ράδραν; εἴτ’ ἐμπεσεῖται τὸ ὕδωρ εἰς τὸ χωρίον τὸ  
 “ἡμέτερον,” ἢ εἰ μὲν ἐβούλετο παύσασθαι, μηδὲν ὑμῶν<sup>d</sup>  
 ἦν δυσχερὲς πρὸς ἀλλήλους, εἰ δ’ ὠλιγώρησε καὶ συν-  
 ἔβη τι τοιοῦτον, μάρτυσιν εἶχες τοῖς τότε παραγενομέ-  
 6 νοις χρῆσθαι. καὶ νῆ Δί’ ἐπιδείξαι σε ἔδει πᾶσιν ἀν-  
 θρώποις χαράδραν οὖσαν, ἵνα μὴ λόγῳ μόνον, ὥσπερ  
 νῦν, ἀλλ’ ἔργῳ τὸν πατέρ’ ἀδικοῦντ’ ἀπέφαινες. τού-  
 των τοίνυν οὐδὲν πῶποτ’ οὐδεὶς ποιεῖν ἤξιωσεν. οὐ  
 γὰρ ἂν οὗτ’ ἐρήμην, ὥσπερ ἐμοῦ νῦν, κατεδιητήσασθε,

<sup>d</sup> ἡμῶν ἦν δυσχερὲς πρὸς ἀλλήλους Bekk. (st. ed.). ὑμῶν δυσχερὲς  
 πρὸς ἀλλήλους ἦν Bekk. (Berlin).

nation from Harpocration, with the awkward *τινά*, does not entirely suit this passage, though he specially refers to this speech. But in Thuc. i. 134, we read of Pausanias, *ἐνθον ὄντα τηρήσαντες αὐτὸν καὶ ἀπολαβόντες εἰσὼ ἀποκοδόμην*, and it seems likely that the lexicographer, or his transcribers, either had that passage itself in view, or carelessly incorporated into an explanation of Demosthenes the note of some previous expositor of Thucydides.

*ἡμῶν*.] Goodwin's *Moods and Tenses* § 44, 3, and Or. 36 § 47. As an exact parallel to the whole of this sentence, we have Or. 28 § 5, *ἐχρὴν* (like *ἐξήν*, *supra*)... *εἰσκαλέσασθαι μάρτυρας πολλοὺς παρασημῆνασθαι κελεύσαι τὰς διαθήκας*, *ἢ*, *εἰ τι ἐγγυετο ἀμφισβητήσιμων*, *ἦν εἰς τὰ γράμματα ταῦτ’ ἐπανελθεῖν*. — *ὑμῶν*, the reading of the Zurich editors, as well as Dindorf, refers to the defendant's father Tisias and the family of Callicles the plaintiff. If (with G. H. Schaefer) we accept *ἡμῶν* which is found in the *codex Augustanus primus* and appa-

rently in other mss, the sense is: ‘in which case you and I would have been having no disputes with one another (as we now have).’

*εἰ...συνέβη τι τοιοῦτον*.] i. e. *εἰ ἐνέπεσεν τὸ ὕδωρ εἰς τὸ χωρίον τὸ ὑμέτερον*.—*μάρτυσι*, referring to *διεμαρτύρατο* in § 4.

*εἶχες*.] without *ἔν*, being dependent on *ἡμῶν*, like the preceding *ἦν*. ‘*intelligendum de Callicle, qui si tale quid olim factum esset, testibus nunc uti posset*.’ G. H. Schaefer.

6. *ἐπιδείξαι...χαράδραν οὖσαν*.] § 12, *ἐγὼ ἀποδείξω χωρίον ὃν τοῦτ’ ἀλλ’ οὐ χαράδραν*.

‘*ἐπιδείξαι σέ γε*, Reiskius emss, *sed vel lege γέ σε, vel potius dele σε*.’ Dobree.

*ἡμῶν—ἀπέφαινες*.] Constr. *ἡμῶν* μὴ λόγῳ μόνον ἀπέφαινες τὸν πατέρα ἀδικοῦντα, ὥσπερ νῦν (*ἀποφαινεῖς*), ἀλλ’ ἔργῳ (*ἀπέφαινες ἀδικοῦντα*). *λόγῳ* and *ἔργῳ* (on which see Or. 46 § 9) are not to be taken with *ἀδικοῦντα*.—In the next sentence *οὐδεὶς* means *οὐδεὶς ὑμῶν*.

*ἐρήμην...κατεδιητήσασθε*.] See § 2.

οὔτε πλέον ἂν ἦν ὑμῖν συκοφαντοῦσιν οὐδέν, ἀλλ' °εἰ  
 7 ἠνέγκατε τότε μάρτυρα καὶ ἐπεμαρτύρασθε, νῦν° ἀπέ-  
 φαινευ ἂν ἐκεῖνος εἰδὼς ἀκριβῶς ὅπως εἶχεν ἕκαστα  
 τούτων, καὶ τοὺς ῥαδίως τούτους<sup>1</sup> μαρτυροῦντας ἐξή-  
 λεγγεν. ἀνθρώπου δ', οἶμαι, τηλικούτου καὶ ἀπείρου  
 τῶν πραγμάτων ἅπαντες καταπεφρονήκατέ μου. ἀλλ'  
 ἐγὼ πρὸς ἅπαντας τούτους, ὧ ἄνδρες Ἀθηναῖοι, τὰς  
 αὐτῶν<sup>5</sup> πράξεις ἰσχυροτάτας μαρτυρίας παρέχομαι.  
 διὰ τί γὰρ οὐδεὶς οὔτ' ἐπεμαρτύρατο οὔτ' ἐνεκάλεσεν,  
 ἀλλ' οὐδ' ἐμέμψατο πώποτε, ἀλλ' ἐξήρκει ταῦτ' αὐτοῖς  
 ἡδικημένους περιορᾶν;

°° Bekk. (Berlin). om. εἰ ἠνέγκατε—νῦν Z et Bekk. (st.  
 Leipzig ed.) cum ZrA<sup>1</sup>A<sup>5</sup>. ('ἐκεῖνος pater est' Z.)

<sup>1</sup> Bekk. (Berlin) cum A<sup>1</sup>A<sup>5</sup>. τούτοις Z et Bekk. st. cum  
 FΣΦB. <sup>5</sup> Bekk. αὐτῶν Z.

εἰ ἠνέγκατε—ἐπεμαρτύρασθε,  
 νῦν.] If (with Dindorf and G.  
 H. Schaefer) we retain these  
 words, ἐκεῖνος will refer to ὁ  
 μάρτυς; if (with the Zurich  
 editors and the higher manu-  
 script authority) we omit them,  
 it can only refer to ὁ πατήρ  
 (Tisias, who was no longer  
 alive). The latter makes quite  
 as good sense as the former;  
 if we lose the antithesis be-  
 tween ὁ μάρτυς and τοὺς ῥαδίως  
 μαρτυροῦντας, we gain the con-  
 trast between the father who  
 would certainly have held his  
 own and the son whose youth  
 and inexperience are held fair  
 game by the plaintiff's party  
 (τηλικούτου—καταπεφρονήκατε).

7. ῥαδίως.] 'only too readi-  
 ly,' 'recklessly,' 'at random.'  
 Plat. Apol. p. 24 c, ῥαδίως εἰς  
 ἀγῶνας καθιστὰς ἀνθρώπους, Leg.  
 917 b, θεῶν νόματα μὴ χρᾶναι  
 ῥαδίως, Meno 94 π, ῥαδίως κα-  
 κῶς λέγειν ἀνθρώπους.

τούτοις.] The reading τοί-  
 τας, accepted by the Zurich

editors, is open to the objection  
 that between κατεδιήγησασθε in  
 the previous and καταπεφρονή-  
 κατε in the subsequent context,  
 we expect, not the third person  
 τούτοις, but the second person  
 ὑμῖν, just as above we have  
 οὐδὲν πλέον ἂν ἦν ὑμῖν.

If we retain the doubtful  
 words at the beginning of § 7,  
 the argument in favour of τοί-  
 τας is yet stronger, and τούτοις  
 is then still less defensible.  
 ('melior vulgata lectio, τούτους,  
 μάρτυρας scilicet,' Seager, *Classi-  
 cal Journal*, 1825, no. 61 p.63).

τηλικούτου.] more commonly  
 of great age (*tantae aetatis*),  
 but here of extreme youth  
 (*tantulae aetatis*). Soph. El.  
 614, ἥτις τοιαῦτα τὴν τεκοῦσαν  
 ὑβρισεν, καὶ ταῦτα τηλικούτος (sc.  
 οὖσα). Antig. 726. Plat. Apol.  
 25 d, τοσούτον σὺ ἐμοῦ σοφώτερος  
 εἰ τηλικούτου ἔντος (so old, of  
 Socrates) τηλικόσδε ὧν (so young,  
 of Meletus).

ἐξήρκει—περιορᾶν.] 'they were  
 content to submit to these

- 8 Ἐγὼ τοίνυν ἱκανὰ μὲν ἡγοῦμαι καὶ ταῦτ' εἶναι 1274  
 πρὸς τὴν τούτων κατηγορίαν. ἵνα δ' εἰδῆτε, ὦ ἄνδρες  
 Ἀθηναῖοι, καὶ περὶ τῶν ἄλλων, ὡς οὐθ' ὁ πατήρ οὐδὲν  
 ἡδίκηκε περιοικοδομῶν τὸ χωρίον οὗτοί τε κατεψευσμέ-  
 νοι πάντ' εἰσὶν ἡμῶν, ἔτι σαφέστερον ὑμᾶς πειράσο-  
 μαι διδάσκειν. τὸ μὲν γὰρ χωρίον ὁμολογεῖται καὶ  
 9 παρ' αὐτῶν τούτων ἡμέτερον ἴδιον εἶναι· τούτου δ'  
 ὑπάρχοντος, ὦ ἄνδρες Ἀθηναῖοι, μάλιστα μὲν ἤδευτε  
 ἂν ἰδόντες τὸ χωρίον ὅτι συκοφαντούμαι. διὸ καὶ τοῖς

wrongs.' The dative ἡδικημένοις subordinate to *περιορᾶν*, follows the case of αὐτοῖς, which again depends on *ἐξήρκει*. Cf. Or. 54 §§ 16 and 44. Or. 3 § 23, εὐδαίμοσιν ὑμῶν ἔξεστι γίγνεσθαι. Madvig *Gk. Synt.* § 158 2) 3).—ταῦτ', acc. after ἡδικημένοις.—*περιορᾶν*, a verb characteristic of Greek prose and comedy (Porson on Eur. Med. 284 and Cobet var. lect. p. 338).

§§ 8, 9. I contend that my father had a perfect right to build the enclosure, as even the plaintiff himself admits that the land is our own property. This being admitted, a personal inspection would in itself have sufficed to shew the jury how groundless the present action is. And this was why I wanted (and my opponents refused) to submit the matter to the arbitration of impartial persons who knew the neighbourhood. Failing this, I must ask the jury for their closest attention while I describe the position of the properties in question.

8. οὐθ'...τε] Or. 54 § 26, Madv. *Gk. Synt.* § 208.

ἡμέτερον ἴδιον] 'our own private property,' stronger than *ἡμέτερον*. So in § 13.—The grammarian Priscian, who cu-

riously regards *ἴδιος* as an exact equivalent to the Latin *suus* has the following remark: *quod mirum est, hoc ipsum* [id est τὸ ἴδιον] *etiam primae et secundae adiungitur personae apud illos ut* Ἰσαῖος ἐν τῷ πρὸς Εὐκλείδην: οὐκ ἂν τὰ ἴδια τὰ ἐμὰ τοῦ (fragm. 60). Demosthenes ἐν τῷ πρὸς Πολυκλέα: οὐ περὶ τῶν ἐμῶν ἰδίῳ μάλλον τιμωρήσεσθε Πολυκλέα ἢ οὐχ ὑπὲρ ὑμῶν αὐτῶν καὶ ἐν τῷ αὐτῷ οὐ περὶ πλείους ἐποιήσαμην τὰ ἐμὰ τοῦ ἴδια ἢ τὰ ὑμέτερα (Dem. Or. 50 §§ 66, 68). ἐν δὲ τῷ πρὸς Καλλικλέα περὶ χωρίου βλάβης: τὸ μὲν γὰρ χωρίον—ἡμέτερον ἴδιον εἶναι. Phroenichus ποαστοίαι: ὥσπερ ἐμοῦ αὐτῆς ἴδιον, pro quo nos dicimus 'meum proprium,' et 'tuum proprium.' dicitur tamen etiam 'suum proprium illius,' ut non putetur abundare 'suum,' sed indubitabilem discretionem significare. Priscian, *Instit.* p. 1089—90.

τούτου δ' ὑπάρχοντος] 'this being admitted,' 'with this fact to begin upon.' Plat. Tim. p. 29 A, τούτων ὑπάρχοντων=τούτων ὑποκειμένων, his positis.

9. ἰδόντες]=el eßtere, Goodwin's *Moods and Tenses* § 52, 1. . . τοῖς εἰδῶσι...τοῖς ἴσοις.] § 35,

εἰδόσιν ἐπιτρέπειν ἐβουλόμην ἐγὼ, τοῖς ἴσοις. ἀλλ' οὐχ οὗτοι, καθάπερ νυνὶ λέγειν ἐπιχειροῦσι· δηλον δ' ὑμῖν καὶ τοῦτ' αὐτίκ' ἔσται πᾶσιν. ἀλλὰ προσέχετε, 10 ὦ ἄνδρες Ἀθηναῖοι, πρὸς Διὸς καὶ θεῶν τὸν νοῦν. τοῦ γὰρ χωρίου τοῦ τ' ἐμοῦ καὶ τοῦ τούτων τὸ μέσον<sup>h</sup> ὁδὸς ἐστίν, ὅρους δὲ περιέχοντος κύκλῳ τοῖς χωρίοις τὸ

<sup>h</sup> Bekk. (Berlin). μέσον Z et Bekk. st. cum Σ (prima manu).

ἐτάμοι ἦμεν ἐπιτρέπειν τοῖς εἰδόσιν, ἴσοις καὶ κοινοῖς. Or. 40 § 40, διατηγῇ ἐπέτρεψα. On 'private arbitrators' see note on Or. 54 § 26 ἡ δαίτα.

In the present instance, the consent of the speaker's opponents was essential, and he insists (for all they urge to the contrary) that it was to their refusal that the failure of his attempt to secure an amicable settlement must be ascribed.

οὐχ οὗτοι.] ἐπιτρέπειν ἐβούλοντο.—In the next sentence ὑμῖν and πᾶσι go together, καὶ emphasizing τοῦτο.

προσέχετε—τὸν νοῦν.] 'I implore the jury, in the name of all that's sacred, to give me their best attention.' The earnestness of this appeal (πρὸς Διὸς καὶ τῶν θεῶν) is explained by the fact that unless the jury clearly understood the topographical details which here follow, the remainder of the speech would be almost unintelligible, and what applies to the original hearers holds equally good for the modern reader. The defendant has just informed the court that an actual inspection of the premises would have been decisive in his favour; he therefore naturally endeavours to compensate for that disadvantage by giving his audience a distinct description of the relative situation of the properties of the

contending parties. [In modern courts a map or plan made by a surveyor would be produced. P.]

§§ 10, 11. *The estate of my opponents is separated from my own by a public road, and both are surrounded by a tract of mountainous country. Thus, the drainage from the hills flows partly into our properties, partly on to the road, and in the latter case, it is either carried down the road itself, or, if anything stops its course, it inundates the properties. On one occasion, the water made an inroad into what was subsequently my father's property, and, owing to neglect, made more and more way. Accordingly my father, on coming into possession, built this wall to protect his land from the encroachments of his neighbours as well as from the inroad of the water.*

10. τοῦ γὰρ—ὁδὸς ἐστίν.] lit. 'for the space between their property and mine is a road,' i.e. there is a road between *their* property and *my* own.' τὸ μέσον, however, seems a less satisfactory reading than μέσον.

ὅρους περιέχοντος κύκλῳ.] Xen. Hellen. iv. 6, 8, διὰ τὰ κύκλῳ περιέχοντα ὄρη. Plat. Critias, Α, τὸ περὶ τῆς πόλεως πᾶν πεδῖον ἐκείνην μὲν περιέχον αὐτὸ δὲ κύκλῳ περιεχόμενον ὄρει.

τοῖς χωρίοις.] This can hardly

καταρρέον ὕδωρ τῇ μὲν εἰς τὴν ὁδὸν, τῇ δ' εἰς τὰ χωρία συμβαίνει φέρεσθαι. καὶ δὴ καὶ τοῦτ' εἰσπίπτου<sup>1</sup> εἰς τὴν ὁδὸν, ἥ μὲν ἂν εὐδοῇ, φέρεται κάτω κατὰ τὴν ὁδὸν, ἥ δ' ἂν ἐνσῇ τι, τηνικαῦτα τοῦτ' εἰς τὰ χωρία ὑπεραί-  
 11 ρειν ἀναγκαῖον ἦδη. καὶ δὴ κατὰ τοῦτο τὸ χωρίον, ὡς ἄνδρες δικάσται, γενομένης ἐπομβρίας συνέβη τὸ ὕδωρ ἐμβαλεῖν ἀμεληθέν δὲ οὐπω τοῦ πατρὸς ἔχοντος

<sup>1</sup> + *ἐνσῇ* Bekk. (Berlin).

be taken with *περιέχοντος κύκλω* which would require an accusative, nor again with *καταρρέον* as we should then expect τὸ ταῖς χωρίοις καταρρέον ὕδωρ, which indeed is actually printed in Reiske's *Index Graecitatis* (with the explanation '*id est eis τὰ χωρία*'). Reiske's erroneous quotation may account for this passage being cited in Liddell and Scott as an instance of *καταρρεῖν* 'c. dat. to rush down to a place.'

A better explanation is either to construct it with *συμβαίνει*, (which however is objectionable on account of the repetition of τὰ χωρία in the same sentence,) or, better still, to understand it as a kind of *dativus incommodi*: in the latter case we might render as follows: 'between their property and mine there is a road; a hilly district encircles both; and unfortunately for the properties the water that flows down runs (it so happens) partly into the road, partly into the properties.'

[I should regard *χωρίοις* as the dative in relation to position; 'as these farms have mountains enclosing them on every side.' P.]

καὶ δὴ καί.] 'and in particular.'

After making a general reference to τὸ καταρρέον ὕδωρ, the speaker narrows his description to the water which runs down the road. In the next section again, καὶ δὴ limits the subject still further to the water which on a special occasion made inroad into his own property.

ἥ δ' εὐδοῇ.] 'wherever it has a free course.' Arist. *gen. anim.* i. 18, *ρεῖ ὅπου δ' εὐδοῇ τοῦ σώματος* and (as a passive in intransitive sense) *ib.* ii. 4, *εὐδοεῖται μάλλον*. Cf. *infra* § 11, τὸ ὕδωρ...μᾶλλον ὠδονοεῖ.

ἥ δ' ἐστὶν τι.] 'wherever anything stands in the way'—'any obstacle intervenes.' Plat. *Phaedo*, 77 B., *ἔτι ἐνέστηκεν* (*instat, obstat*) τὸ τῶν πολλῶν (of an objection in argument, *ἐνστάσις*).

τηνικαῦτα κ.τ.λ.] 'why! thereupon it must of course overflow the properties.' *τηνικαῦτα*, though almost always used of *time*, occasionally (as here after *ἥ*, which indicates *place*) bears a more general meaning, 'in that case,' 'under these circumstances.'

11. ἀμεληθέν.] It seems best to regard this as an accusative neuter *absolute* ('neglect having ensued'), and not to take it

αὐτὸ, ἀλλ' ἀνθρώπου δυσχεραίνοντος ὅλως τοῖς τόποις  
καὶ μᾶλλον ἀστικοῦ, δις καὶ τρίς ἐμβαλὼν τὸ ὕδωρ τὰ  
τε χωρία ἐλυμήνατο καὶ μᾶλλον ὥδοποιεῖ. διὸ δὴ  
ταῦθ' ὁ πατήρ ὄρων, ὡς ἐγὼ τῶν εἰδόντων ἀκούω,  
καὶ τῶν γειτόνων ἐπινεμόντων ἅμα καὶ βαδίζόντων

with τὸ ὕδωρ, much less with αὐτὸ, i.e. τὸ χωρίον. So in Plat. *Phaedr.* 265 D, ὀρισθὲν 'it having been defined.' Or. 50 (Polycl.) § 12, προσταχθέν. (Kühner § 487, 3, and Goodwin's *Moods and Tenses* § 110. 2).

In translating, we can best bring out the sense by reserving ἀμεινθέν to a later point in the English sentence, and rendering the clause οὐπω... ἔχοντος as though it contained the principal verb. Thus: 'now my father was not yet in possession of the property, but a man who disliked the neighbourhood and preferred town life; accordingly neglect ensued, and the water...made more, and more way.'—For ὥδοποιεῖ, cf. *supra* § 10, εὐδογῇ.

[By μᾶλλον ὥδοποιεῖ, the speaker wishes to shew how the rain had made a way for itself almost amounting to a χαράδρα, though he denies the existence of any recognised χαράδρα by the road-side in § 16. P.]

ὄρων...ἐπινεμόντων.] For the nominative participle combined with the genitive absolute, cf. Thuc. viii. 45, Ἀλκιβιάδης τοῖς Πελοποννησίοις ὑποπτος ὢν καὶ ἀπ' αὐτῶν ἀφικομένης ἐπιστολῆς...ὑποχωρεῖ (Goodwin's *Moods and Tenses* § 111).

τῶν γειτόνων—χωρίου] 'as the neighbours also (ἅμα) encroached and trespassed on the property,' ἐπινέμειν and ἐπινomia are specially used of turning

catle on to a neighbour's land, for pasture. Hence the metaphorical use of the word in Aesch. Ag. 485, πιθανὸς ἄγαν ὁ θῆλος δροσὶ ἐπινέμεται ταχύπορος. Among other words compounded with ἐπι and used of encroachments on the debatable borderland of two countries, or on the boundaries of adjacent properties, we have ἐπεργάζεσθαι and ἐπεργασία.

In Plato's *Laws* (pp. 843—4) there is a long and interesting passage, in which the annoyances caused by neighbours are dwelt upon, and suggestions made for legal remedies. We transcribe these portions only which illustrate the clause before us, and indeed the speech in general. p. 844 B. βλάβαι πολλαὶ καὶ συμκραι γειτόνων γιγνόμεναι, διὰ τὸ θαμίζειν ἐχθρας ὄγκον μέγαν ἐντίκτουςαι, χαλεπὴν καὶ σφόδρα πικρὰν γείτονιαν ἀπεργάζονται. διὸ χρὴ πάντως εὐλαβεῖσθαι γείτονα γείτονα μηδὲν ποιεῖν διάφορον, τῶν τε ἄλλων πέρι καὶ δη καὶ ἐπεργασίας συμπασης σφόδρα διευλαβούμενον...ὅς δ' ἂν ἐπεργάζηται τὰ τοῦ γείτονος ὑπερβαίνειν τοὺς ὄρους, τὸ μὲν βλάβος ἀποτινέτω, τῆς δὲ ἀναιδίας ἅμα καὶ ἀνελευθερίας ἕνεκα λατρεύνμενος διπλάσιον τοῦ βλάβους ἄλλο ἐκτισάτω τῷ βλαφθέντι...καὶ ἐάν τις βοσκήματα ἐπινέμῃ, τὰς βλάβας (ἀγρονόμοι) ὄρωντες κρινόντων καὶ τιμίντων.

See esp. Donaldson's *New Cratylus* § 174, where this class



διὰ τοῦ χωρίου, τὴν αἵμασιαν περιφκοδόμησε ταύτην.  
 12 καὶ ὡς ταῦτ' ἀληθῆ λέγω, παρέξομαι μὲν καὶ μάρτυρας 1275  
 ὑμῖν τοὺς εἰδότας, πολὺ δὲ, ὧ ἄνδρες Ἀθηναῖοι, τῶν  
 μαρτύρων ἰσχυρότερα τεκμήρια. Καλλικλῆς μὲν γάρ  
 φησι τὴν χαράδραν ἀποικοδομήσαντα βλάπτειν ἐμὲ  
 αὐτόν<sup>1</sup>. ἐγὼ δ' ἀποδείξω χωρίον ὃν τοῦτ' ἀλλ' οὐ

<sup>1</sup> αὐτὸν Ζ.

of words is discussed. He apparently understands *ἐπιτέμειν* in this passage to refer to a 'common trespass;' but this is sufficiently expressed by *βαδίζοντων* *διὰ τοῦ χωρίου*, and it is therefore better to give *ἐπιτεμόντων* that special application to the 'encroachment of cattle' which it constantly bears.

*αἵμασιαν*.] Never used in the sense of a 'hedge,' but always of a 'wall of dry stones.' In *Odyss.* *xviii.* 359 and *xxiv.* 224—230, *αἵμασις* λέγειν is explained in a *scholium*, *οικοδομῶν ἐκ συλλεκτῶν λίθων*, and *Hesychius* paraphrases the word *τὸ ἐκ πολλῶν λίθων λογάδων ἄθροισμα*. Thus in *Theocr.* *i.* 45, a boy watching a vineyard is described as sitting *ἐφ' αἵμασιᾶσι*, and in *v.* 93 we have roses growing in beds beside the garden-wall, *ρόδα τῶν ἀνθηρὰ παρ' αἵμασιᾶσι πεφύκει*. Cf. *Plat. legg.* 881 *A*, *περιβόλους αἵμασιώδεις τινάς, τειχῶν ἐρύματα*.

In *Bekker's Anecdota Graeca* p. 356, we have the definition, *τὸ ἐκ χαλκῶν ψκοδομημένον τεῖχος*, where the next few words, *κυρίως δὲ τοῖς ἡκανθωμένοις λέγεται φραγμοῖς*, shew that such walls were sometimes topped with thorns (*Odyss.* *xiv.* 10, *αὐλήν...δεῖματο...ρυτοῖσιν λάεσσιν καὶ ἐθρίγκωσεν ἀχέρῳ*, cf.

*xxiv.* 230), just as in England rough stone-walls are frequently finished off with furze and other prickly shrubs.

§§ 12—15. *The plaintiff contends I have damaged his estate by obstructing 'the water-course.'* In reply, I shall prove that what he calls a water-course is no such thing, but really part of our own ground, for it has fruit-trees growing in it which were planted before my father built the enclosure, and it contains a burial-place made before we acquired the property.

All this is in evidence, gentlemen, as also the fact that the wall was built while the plaintiff's father was still alive, and without any protest on the part of my opponents or the rest of my neighbours.

12. *τὴν χαράδραν*.] emphatic, as is shewn by its prominent position and by the next sentence.

*βλάπτειν ἐμὲ αὐτόν*.] The order of words, (1) the infinitive, (2) the subject, (3) the object, is exactly parallel to that in *Or.* 54 § 31 *μὴ παρᾶξαι Κόρυνα Ἀρίστονα*.

*χωρίον.....ἀλλ' οὐ χαράδραν*.] 'private ground and no water-course.' *Isocr.* ad *Dem.* § 2 *τῶν σκουδαίων ἀλλὰ μὴ τῶν φαύλων εἶναι μιμητάς*.

- 13 χαράδραν. εἰ μὲν οὖν μὴ συνεχωρεῖτο ἡμέτερον ἴδιον εἶναι, τάχ' ἂν τοῦτο ἡδικοῦμεν, εἴ τι τῶν δημοσίων ψοδομοῦμεν· νυνὶ δ' οὔτε τοῦτο ἀμφισβητοῦσιν, ἔστι τ' ἐν τῷ χωρίῳ δένδρα πεφυτευμένα, ἄμπελοι καὶ συκαῖ. καίτοι τίς ἐν χαράδρᾳ ταῦτ' ἂν φυτεύειν ἀξιώσειεν; οὐδεὶς γε. τίς δὲ πάλιν τοὺς αὐτοῦ
- 14 προγόνους θάπτειν; οὐδὲ τοῦτ' οἶμαι. ταῦτα τοῖνυν ἀμφότερ', ὧ ἄνδρες δικασταί, συμβέβηκεν καὶ γὰρ τὰ δένδρα πεφύτευται πρότερον ἢ τὸν πατέρα περιιοκοδομησάι τὴν αἵμασιν, καὶ τὰ μνήματα παλαιὰ καὶ πρὶν ἡμᾶς κτήσασθαι τὸ χωρίον γεγεννημένα ἐστίν. καίτοι τούτων ὑπαρχόντων τις ἂν ἔτι λόγος ἰσχυρότερος, ὧ ἄνδρες Ἀθηναῖοι, γένοιτο; τὰ γὰρ ἔργα φανερώς ἐξελέγχει. καὶ μοι λαβὲ πάσας νυνὶ τὰς μαρτυρίας, καὶ λέγε.

13. *εἰ μὴ συνεχωρεῖτο ἴδιον εἶναι, τάχ' ἂν ἡδικοῦμεν, εἴ τι τῶν δημοσίων ψοδομοῦμεν.*] In this conditional sentence, we have one *apodosis* ἡδικοῦμεν ἂν, corresponding to a double *protasis*. The second *protasis* *εἰ*—ψοδομοῦμεν reiterates the first with a slight change of idea. The supposition stated at the beginning of the sentence is thus re-stated with some slight redundancy at the end, and reaches the hearer in two parts, which enter his mind separately and there unite. So in Plat. *Phaedo* 67 π, *εἰ φοβούντο καὶ ἀγανακτοῖεν, οὐ πολλὰ ἂν λόγια εἶη...* *εἰ μὴ ἄσμενοι ἐκείσε ἴοιεν.* The idiom may be illustrated by the effect upon the brain of the double images of external objects entering the eyes separately and subsequently uniting. Numerous varieties of construction, of which the present is a single instance, are grouped

under the general heading of 'Binary Structure' in Riddell's *Digest of Platonic idioms*, § 204. *ἡμέτερον ἴδιον.*] See note on § 8, *ad fin.*

*πεφυτευμένα.*] 'planted' and not growing wild, like the *ἐρινεὶς* or *συκὴ ἀγρία*.

*τίς...θάπτειν.*] The telling question, 'who would think of burying his ancestors in a water-course?' (a question seriously put, unless perhaps we ought to take it as one of the touches of humour characteristic of this speech), is of course not meant to apply to all the tombs subsequently mentioned (§ 14), as some of them were there even before the land came into the speaker's possession.

14. *καὶ γὰρ...καί.*] 'for not only ...but.' A frequent idiom, though one but little observed. P.] *τούτων ὑπαρχόντων.*] Cf. § 9 *init.*

## ΜΑΡΤΥΡΙΑΙ.

- 15 Ἀκούετε, ὦ ἄνδρες Ἀθηναῖοι, τῶν μαρτυριῶν.  
 ἄρ' ὑμῖν δοκοῦσι διαρρήδην μαρτυρεῖν καὶ τὸ<sup>κ</sup> χωρίον  
 εἶναι δένδρων μεστὸν καὶ μνήματ' ἔχειν τινὰ καὶ τᾶλλ'  
 ἅπερ καὶ τοῖς ἄλλοις χωρίοις συμβέβηκεν; καὶ πάλιν  
 ὅτι περιφθοδομήθη τὸ χωρίον ζῶντος μὲν ἔτι τοῦ τού-  
 των<sup>1</sup> πατρός, οὐκ ἀμφισβητούντων δ' οὔτε τούτων οὔτ'  
 ἄλλου τῶν γειτόνων οὐδενός;
- 16 Ἀξιον δ', ὦ ἄνδρες δικασταί, καὶ περὶ τῶν ἄλλων 1276  
 ὣν εἶρηκε Καλλικλῆς ἀκοῦσαι. καὶ σκέψασθε<sup>m</sup> πρῶτον

<sup>κ</sup> Bekk. (Berlin).

χωρίον Z et Bekker st. cum FZΦB.

<sup>1</sup> Bekk.

τοῦ τούτου Z cum FΦB. τῶν τούτου Σ.

<sup>m</sup> Bekk.

σκέψασθαι Z cum ΣΦ.

15. ἄρ'.] We should expect ἄρ' οὐχ, which, like *nonne*, distinctly implies an affirmative answer. But ἄρα is not unfrequently used alone, to denote a simple interrogation, the context shewing whether a negative or, as here, an affirmative reply is expected. Xen. Cyr. iv. 6. 4, ἄρα βέβληκα δις ἐφεξῆς; (L. and S.).

μνήματα...τινὰ.] Not μνήματα παλαιὰ as before. The description is made as general as possible to shew that the piece of ground in question had all the essential characteristics of private property.—τᾶλλ' ἅπερ. The speaker does not specify what is included in this *et cetera*, but the depositions probably went into further detail.

§§ 16—18. The plaintiff speaks of the stoppage of a water-course. Now, firstly, I don't suppose that in the whole of Attica there is such a thing as a watercourse by the side of a public road. The water would naturally flow down the road

and a water-course would be quite unnecessary. Next, no one surely would think of allowing water passing down the highway to flow into his own land; on the contrary, he would of course dam it off, if it ever made in-road.

Now the plaintiff wants me to let the water flow into my own land, and to turn it off into the road again after it has passed his property. Why then, the owner next below my neighbour opposite will complain. In short, if I take the water from off the road, I cannot let it out again either into the road or into my neighbour's properties. And no other course is open to me, for I presume the plaintiff won't compel me to drink it up.

16. σκέψασθε.] The other reading σκέψασθαι (closely connected by καὶ with ἀκοῦσαι) is perhaps less preferable, but is accepted by the Zurich editors, partly on the authority of the Paris MS Σ.

μὲν εἰ τις ὑμῶν ἑώρακεν<sup>α</sup> ἢ ἀκήκοε πώποτε παρ' ὁδὸν  
 χαράδραν οὖσαν. οἶμαι γὰρ ἐν πάσῃ τῇ χώρᾳ μηδε-  
 μίαν εἶναι. τοῦ γὰρ ἕνεκα, ὃ διὰ τῆς ὁδοῦ τῆς δημοσίας  
 ἐμελλε βαδιεῖσθαι φερόμενον, τούτῳ διὰ τῶν ιδίων  
 17 χωρίων χαράδραν ἐποίησέ τις; ἔπειτα τίς ἂν ὑμῶν εἴτ'

<sup>α</sup> ἑώρακεν Z.

οἶμαι—ἐποίησέ τις;] The speaker, after asking whether any of his audience has ever seen or even heard of a water-course running by the side of a public way, takes upon himself to declare that he does not believe there is anything of the kind in the whole of Attica. The startling character of this assertion, which could hardly have been untrue, is only equalled by the delightful frankness with which he assigns the reason; 'what could induce any one,' he asks, 'to make a channel through his private grounds for water, which, if let alone, would be sure to flow down along the public road?' The passage is singularly suggestive on the state of the mountain roads of Attica; the public road, so called, would in numbers of cases be little better than the path of a mountain-torrent, which might be used in dry weather for purposes of transit, but in very wet seasons would revert to the possession of the waters. In the days of Demosthenes many of the mountain roads were, we presume, not much better than those of modern Attica, as described in Edmond About's lively book on Greek brigandage, *Le Roi des Montagnes*:

"I crossed at a leap the Eleusian Cephissus . . . One

hundred paces further on, the road was lost in a wide and deep ravine, hollowed by the rains of two or three thousand winters. I supposed with some show of justice that the ravine must be the road, for I had noticed in my previous excursions that the Greeks dispense with making a road wherever the water has been kind enough to take that duty on itself. In this country, where man but slightly thwarts the laws of nature, the torrents are royal roads; the rivers turnpike-roads; the rivulets cross-country roads. Storms do the office of highway engineers and the rain is an inspector who keeps up without any control the means of communication, great and small." (p. 45 = p. 42 *Eng. transl.* 1862.)

[We must remember that road-making, as we have it, is a modern art, and that the want of roads is still the cause of backward civilisation and commerce in many countries. The hollow or sunken lanes, common in many parts of England, are caused by the excavating power of water running along tracks. The Romans raised their roads (*viæ munitæ*) apparently to avoid this. As an illustrative passage, we may quote Iliad xxiii. 420, ῥοχμὸς ἐπὶ γαίῃς, ἢ χειμέριον ἄλιν ὕδωρ ἐξέτρηξεν ὁδοῖο, βέθυρε δὲ χώρον ἅπαντα. P.] βαδιεῖσθαι.] The *Classic* fu-

ἐν ἀγρῷ νῆ Δί' εἴτ' ἐν ἄστει τὸ διὰ τῆς ὁδοῦ ῥέον  
 ὕδωρ εἰς τὸ χωρίον ἢ τὴν οἰκίαν δέξαιτ' ἂν αὐτοῦ;  
 ἀλλ' οὐκ αὐτὸ τοῦναντίον, κὰν βιάσῃται ποτε, ἀπο-  
 φράττειν ἅπαντες καὶ παροικοδομεῖν εἰώθαμεν; οὐ-  
 τος τοῖνυν ἀξιοῖ με ἐκ τῆς ὁδοῦ τὸ ὕδωρ εἰσδεξάμενον  
 εἰς τὸ ἐμαντοῦ χωρίον, ὅταν τὸ τούτου παραλλάξῃ  
 χωρίον, πάλιν εἰς τὴν ὁδὸν ἐξαγαγεῖν. οὐκοῦν πάλιν  
 ὁ μετὰ τοῦτόν μοι γεωργῶν τῶν γειτόνων ἐγκαλεῖ  
 τὸ γὰρ ὑπὲρ τούτου δίκαιον δῆλον ὅτι κακείνοις ὑπάρ-  
 13 ξει πᾶσι λέγειν. ἀλλὰ μὴν εἴ γε εἰς τὴν ὁδὸν ὀκνήσω  
 τὸ ὕδωρ ἐξάγειν, ἢ που σφόδρα θαρρῶν εἰς τὸ τοῦ

ture of βαδίζω (retained even by Plutarch and Lucian); the other forms, βαδίσω and βαδιῶ, are characteristic of the worst Greek, *extrema barbaries* (Cobet, *var. lect.* 329).

αὐτὸ τοῦναντίον.] 'on the very contrary,' so also in Or. 22 (Androt.) § 7.—*ἀν τοῦναντίον* was the vulgar text until corrected by Reiske, on the authority of two mss and the margin of Σ; but the correction is so certain that authority is hardly wanted.

ἀποφράττειν καὶ παροικοδομεῖν] 'dam and wall it off.' The former implies an abrupt cutting off of the water by a transverse dam athwart the stream; the latter probably expresses a wall built parallel to the stream to narrow its course.

οὗτος τοῖνυν—ἐγκαλεῖ.] 'This man, Callicles, expects me, to take the water from the road (where it has no *χαράδρα*) into my farm, and when it has passed his, again to carry it out of my farm into the road. But, in that case, the farmer who occupies next to *him* would complain;' i.e. he would say that I ought to carry it beyond

his farm also, lest it should come in from the road. It is clear that the defendant's farm, on one side of the road (§ 10), extended considerably beyond that of the plaintiff Callicles on the other. For he says that, if bound to carry it beyond one farm, he was bound to carry it beyond a second or a third, before he allowed it to re-enter the public road. P.]

ἐξαγαγεῖν.] 'draw off,' 'let out.' Xen. Oec. 20 § 12, τὸ ὕδωρ ἐξάγεται τάφροις.

ἐγκαλεῖ.] Not present, but future. The context is decisive and the margin of the Paris ms has ἐγκαλέσει, pointing to the same conclusion, though the note seems due to a copyist who did not recognise in ἐγκαλεῖ the regular Attic future. In Or. 23 (Aristocr.) § 128, we have ἐγκαλέσουσιν; so also in Or. 19 § 133. The *simple* verb καλῶ hardly ever (Cobet says, *never*) has any other future than καλῶ (*var. lect.* 28, 29).

18. ἢ ποῦ.] 'Surely, I should scarcely be bold enough to turn it on to my neighbour's land;' —'I should be a very bold man

πλησίον χωρίον ἀφείην ἄν. ὅπου γὰρ<sup>nm</sup> δίκας ἀτιμή-  
τους φεύγω διότι τὸ ἐκ τῆς ὁδοῦ ῥέον ὕδωρ εἰς τὸ  
τούτου χωρίον διέπεσε, τί πείσομαι πρὸς Διὸς ὑπὸ  
τῶν ἐκ τοῦ χωρίου τοῦ ἐμοῦ τοῦ ὕδατος εἰσπεσόντος  
βλαπτομένων; ὅπου δὲ μήτ' εἰς τὴν ὁδὸν μήτ' εἰς τὰ  
χωρία ἀφείναι<sup>o</sup> μοι τὸ ὕδωρ ἐξέσται<sup>o</sup> δεξαμένῳ, τί λοι-  
πὸν, ὦ ἄνδρες δικασταί, πρὸς θεῶν; οὐ γὰρ ἐκπτεύν

<sup>nm</sup> + *non* Bekk. (Berlin).

\* ἀφείναι... ἐξέσται Bekk. (Berlin). ἀφείναι *Z et Bekker st.*  
*cum FΦB* (ἀφείναι *Σ*). ἐξέσται *Z cum FΣΦ*.

indeed to do so.' For this slightly ironical use of ἡ που, 'to be sure,' cf. Lycurgus § 71 ἡ που τάχως ἂν ἠρέσχετό τις ἐκείνων τῶν ἀνδρῶν τοιούτου ἔργου. Soph. Aj. 1008, ἡ που με Τελαμών...δέξαιτ' ἂν εὐπρόσωπος Ἰλιώς τ' ἴσως χωροῦντ' ἀνευ σοῦ.

ὅπου.] 'whereas,' 'in a case where,' (without any direct notion of *place*). Isocr. ad Dem. § 49.

δίκας ἀτιμήτους φεύγω.] 'am sued for a fixed penalty,' 'am put on my trial in law-suits where the damages are already assessed by law.' The plural refers to the fact that the speaker has been sued by Callicrates as well as by Callicles (§ 2).

δίκη τιμητὸς means 'a suit to be assessed,' i.e. 'a suit in which the penalty or damages have not been determined by law.' δίκη ἀτιμητὸς means the opposite; 'a suit not to be assessed,' i.e. a suit in which the penalty has already been fixed by law.

So Harpocration: ἀτιμητὸς ἀγὼν καὶ τιμητὸς. ὁ μὲν τιμητὸς ἐφ' ᾧ τίμημα ὠρισμένον ἐκ τῶν νόμων οὐ κείται, ἀλλὰ τοὺς δικαστὰς ἔδει τιμᾶσθαι ὅ τι χρή παθεῖν ἢ ἀποτίσαι· ὁ δὲ ἀτιμητὸς τούναντίον ᾧ πρόσεστιν ἐκ τῶν νόμων ὠρισμένον τίμημα, ὥς μηδὲν δεῖν

τοὺς δικαστὰς διατιμῆσαι. Αἰσχίνης κατὰ Κτησιφῶντος (p. 84. 7), Δημοσθένης κατὰ Μειδίου (§ 116).

Again Pollux (8. 63) has: ἀτιμητὸς δὲ δίκη, ἣν οὐκ ἔστιν ὑποτιμῆσθαι ἀλλὰ τοσοῦτου τετίμηται ὅσον ἐπιτέγραπται.

The above explanation is wrongly reversed by Suidas (ap. 74 of Telfy's *Corpus iuris Attici*), by the *Lexica Segueriana* (on p. 202 and 469 of Bekker's *Anecdota Graeca*) and even in a scholium on § 25 *infra*, *χίλων δ'ραχμῶν δίκην ἀτιμητὸν φεύγω*, a passage which is decisive in favour of Harpocration's distinction.

ὅπου δὲ μήτε.] There would seem to have been a law prohibiting the draining of farms on to a public way. Hence he says *εἰ εἰς τὴν ὁδὸν ἱκνήσω τὸ ὕδωρ ἐξάγειν*. It was equally illegal, of course, to drain on to another's land. Hence he asks what he was to do with the water, if once he admitted it on his farm? And the inference is, that he was right in not admitting it, but in damming it back as far as he could, and letting it run as it might along the road. P.]

οὐ γὰρ ἐκπτεύν—αὐτὸ προσαναγκάσει.] This passage is

19 γε δήπου με Καλλικλῆς αὐτὸ προσαναγκάσει. ταῦτα τοῖνυν ἐγὼ πάσχων ὑπὸ τούτων καὶ πολλὰ ἔτερα καὶ δεινὰ, μὴ ὅτι δίκην λαβεῖν, ἀλλὰ μὴ προσοφλεῖν ἀγαπήσαιμ' ἄν. εἰ μὲν γὰρ ἦν, ὧ ἄνδρες δικασταί, χαρά- 1277 δρα πάλιν ὑποδεχομένη, τάχ' ἂν ἡδίκουν ἐγὼ μὴ δεχόμενος, ὥσπερ ἀνὰ χᾶτερ' ἅττα τῶν χωρίων εἰσὶν ὁμολογούμεναι χαράδραι· καὶ ταύτας δέχονται μὲν

ἢ ἀν' ἑτέρῳ Z cum H. Wolfio. ἀν' ἑτέρῳ FΣΦ. ἀνὰ θάτερ' Bekk. ἀνὰ χᾶτερ ἅττα lege; partim e mss. Dobree.

quoted by Aristides (ii. 470 in Spengel's *Rhet. Graeci*), *ὅταν εἰς ἀποκὸν ἀπάγῃ τὸν λόγον, βαρότητα εἰργασαί, ὡς ἐν τῷ πρὸς Καλλικλέα, οὐ γὰρ δὴ ἐκπείν με αὐτὸ Καλλικλῆς ἀναγκάσει.* The Rhetorician recognises the force and effectiveness of the sentence, but fails to draw attention to its humour.

§ 19. Now had there *ever* a water-course below my property, to take off the drainage, I might have been doing wrong in refusing to let the water into my land; but, as it is, the water-course alleged is neither passed down to me by any neighbour immediately above me, nor passed down by me to any one else below.

19. *μὴ οὐ*—ἀλλὰ μὴ...ἀγαπήσαιμ' ἄν.] 'I must be content, I do not say, with obtaining a verdict, but with escaping conviction.' The sense is: 'victimized as I have been, instead of gaining legal satisfaction from my opponents, I must think myself fortunate if I am not convicted to pay them an additional penalty.'

*εἰ μὲν γὰρ*—παραλαμβάνουσιν ὥσαύτως.] In Plato's *Laws* provisions are suggested to prevent damage being incurred in times of heavy rain owing to neglect on the part of neighbours in

providing an outlet for streams that pass down to them from the higher ground immediately adjacent, or again owing to careless transmission of the streams on the part of the neighbours higher up the hill.

ἐὰν δὲ ἐκ Διὸς ὕδατα γιγνόμενα, τὸν ἐπάνω γεωργοῦντα ἢ καὶ ὁμότοιχον οἰκοῦντα τῶν ὑποκάτω βλάπτῃ τις μὴ διδοὺς ἐκροήν, ἢ τοῖναντίον ὁ ἐπάνω μεθίεις ἐκτὴ τὰ ρεύματα βλάπτῃ τὸν κάτω, καὶ περὶ ταῦτα μὴ ἐθέλωσι διὰ ταῦτα κοινωνεῖν ἀλλήλοις, ἐν δόξα μὲν ἀσυννόμων, ἐν ἀγρῷ δὲ ἀγροσκόμων ἐπάγων ὁ βουλόμενος ταξάσθω τί χρὴ ποιεῖν ἑκάτερον· ὁ δὲ μὴ ἐμμένων ἐν τῇ τάξει φθόνου θ' αἶμα καὶ δυσκόλου ψυχῆς ὑπετέτω δίκην, καὶ θύλων διπλάσιον τὸ βλάβος ἀποτινέτω τῷ βλαφθέντι, μὴ ἐβελήσας τοῖς ἀρχουσι πείθεσθαι. Leg. viii. 844 c.

ἡλίκων...μὴ δεχόμενος.] Thus in the fens near Cambridge, an obligation lies on each tenant to clear out the ditch or dyke bounding his land on one side, and so to give free passage to the water from his neighbour's land. P.] Cf. the *ius aquae ducendae* which was one of the *servitutes* (or limiting obligations), under which property was held in Roman law.

ὁμολογούμεναι χαράδραι.] 'recognised, acknowledged, undis-

οἱ πρῶτοι, καθάπερ τοὺς ἐκ τῶν οἰκιῶν χειμάρρους, παρὰ τούτων δ' ἕτεροι παραλαμβάνουσιν ὡσαύτως· ταύτην δ' οὔτε παραδίδωσιν οὐδεὶς οὔτε παρ' ἐμοὶ 20 παραλαμβάνει. πῶς ἂν οὖν εἴη τοῦτο χαράδρα; τὸ δ' εἰσπεσὸν ὕδωρ ἔβλαψε μὲν<sup>α</sup>, οἶμαι, πολλάκις ἤδη πολλοὺς μὴ φυλαξαμένους, ἔβλαψε δὲ νῦν καὶ τουτονί. ὃ καὶ πάντων ἐστὶ δεινότατον, εἰ Καλλικλῆς μὲν εἰς τὸ χωρίον εἰσπεσόντος τοῦ ὕδατος ἀμαξιάλους λίθους προσκομίσας ἀποικοδομεῖ, τοῦ δὲ πατρὸς, ὅτι τοῦτο παθόντος τοῦ χωρίου περιφοδόμησεν, ὡς ἀδικούντος ἐμοὶ βλάβης εἴληχε δίκην. καίτοι εἰ ὅσοι κακῶς πεπόνθασιν ἰπὸ τῶν ὑδάτων τῶν ταύτῃ ρέοντων ἐμοὶ

<sup>a</sup> Bekk.

ἐβλαψεν Z cum FΣΦB.

puted water-courses.' A curious expression. The nearest approach to it that I can find is (Andoc.) Or. 4 § 17 οὐδὲν ἤττον τῶν ὁμολογουμένων δούλων.

τοὺς χειμάρρους.] here 'water-drains,' 'gutters,' like ὑδρορροά Ar. Ach. 922. The word has lost all trace of its primary meaning 'a winter-torrent.'

§ 20. *The fact is, that simply owing to the plaintiff's own carelessness, he has suffered from a flood, as others have before him; and the strangest inconsistency of all is, that the plaintiff, while he himself brings to the spot large stones to dam off the water when it makes inroad, has actually brought against me a suit for damages, just because my father built a wall round his property with the very same object.*

20. μὴ φυλαξαμένους.] 'for not being on their guard,' 'owing to their neglect.' μὴ here implies the reason, as distinguished from οὐ which would

only denote the fact. The vulgar text before Wolf's ed. had φυλαξαμένους, Wolf proposed and Reiske accepted οὐ φ. but μὴ φ. is clearly better, and is found in several mss. (Augustanus 1 and 5, and Bavaricus).

ὃ καὶ...δεινότατον, εἰ.] Isocr. Archidamus § 56 ὃ δὲ πάντων σχετλιώτατον, εἰ φιλοπονιώτατοι δοκοῦντες εἶναι...ῥαθυμότερον βουλευσόμεθα. Paneg. § 128 ὃ δὲ πάντων δεινότατον, όταν... (Dem.) Aristog. (25) § 31 ὃ καὶ θανμαστὸν ἐστίν, εἰ κ.τ.λ. In such sentences ὃ δὲ implies a less close connection with the previous context than ὃ καὶ, and ἐστὶ is frequently omitted (Kühner § 406, 9. Madvig, Gr. Synt. § 197).

ἀμαξιάλους λίθους.] Xen. Anab. iv. 2, 3, ἐκυλινδουν δικοιρόχους ἀμαξιάλους (huge boulders) and Hell. ii. 4, 27, Eur. Phoen. 1157, λαὸν ἐμβαλὼν κάρα ἀμαξοπηθῆ. ἐμοὶ βλάβης εἴληχε δίκην.] Dem. Or. 29 § 30 ἐγὼ τὴν δίκην ἔλαχον τοῦτω τῇς ἐπιτροπῆς. Kühner § 419, 12.



λήξονται δίκας, οὐδὲ πολλαπλάσια γενόμενα τὰ ὄντα  
 21 ἐξαρκέσειεν ἂν μοι. τοσοῦτον τοίνυν διαφέρουσιν  
 οὗτοι τῶν ἄλλων ὥστε πεπονθότες μὲν οὐδὲν, ὡς αὐ-  
 τικά ὑμῖν ἐγὼ σαφῶς ἐπιδείξω, πολλῶν δὲ πολλὰ καὶ  
 μεγάλα βεβλαμμένων μόνοι δικάζεσθαι τετολήκασιν  
 οὗτοί μοι. καίτοι πᾶσι μᾶλλον ἐνεχώρει τοῦτο πράτ-  
 τειν. οὗτοι μὲν γὰρ, εἰ καὶ τι πεπόνθασιν, αὐτοὶ δι'  
 αὐτοὺς βεβλαμμένοι συκοφαντοῦσιν· ἐκείνοι δὲ, εἰ καὶ  
 μηδὲν ἄλλο, τοιαύτην γ' οὐδεμίαν αἰτίαν ἔχουσιν. ἀλλ'

οὐδὲ πολλαπλάσια.] So in § 35 the defendant speaks of his μικρά οὐσία.

§ 21. If all my neighbours were to treat me as the plaintiff has done, I should soon be a ruined man; but while the rest, who have had great losses, are content to bear their misfortune, my present opponents alone, who have lost nothing to speak of, are bringing against me a groundless action for damage entirely due to their own neglect.

21. πεπονθότες...βεβλαμμένων cf. § 11 ὁρῶν...ἐπιμενομένων n.

τετολήκασιν.] τολμάω and its tenses are regularly used in Greek prose, while τλήναι is almost entirely confined to Greek verse (note ὅν Isoer. Paneg. § 96 ἐτλησαν).—τοῦτο πράττειν=δικάζεσθαι.—πᾶσι sc. τοῖς ἄλλοις.

εἰ καὶ.] Notwithstanding—even if—they have had some trifling losses. εἰ καὶ, without disputing the condition (here εἰ πεπόνθασιν), represents it as of little consequence; καὶ εἰ or καὶ 'even supposing' introduces a condition which is utterly improbable. Kühner § 378.

αὐτοὶ — βεβλαμμένοι.] 'they have incurred damage owing to their own fault alone (by not damming off the water as I

did), though they vexatiously throw the blame upon me.' The participle here is quite as emphatic as a principal verb.

ἐκείνοι αἰτίαν ἔχουσιν.] 'whereas the rest of my neighbours, not to mention any other point, at any rate incur no such imputation as this.' With μηδὲν ἄλλο I understand διαφέρουσι, and I refer αἰτίαν ἔχουσι to αὐτοὶ δι' αὐτοὺς βεβλαμμένοι συκοφαντοῦσι. The imputation is συκοφαντία, bringing a vexatious charge when they are themselves to blame for want of precaution. Cf. next § τοὺτους μὲν μηδὲν ἐγκαλεῖν...τοὺτοι δὲ συκοφαντεῖν.

['while the rest, however negligent they may have been, are at all events chargeable with nothing of this kind,' Kennedy. This seems to give the sense; but the precise ellipse with εἰ καὶ μηδὲν ἄλλο is obscure. P.]

G. H. Schaefer explains τοιαύτην αἰτίαν by the words τοῦ αὐτοῦ (qu. αὐτοῖ) δι' αὐτοὺς βεβλάσθαι, and with εἰ καὶ μηδὲν ἄλλο he understands πεποιήκασιν τοῦ φυλάττεσθαι τὴν ἐκ τοῦ ὕδατος ἐσομένην βλάβην.

αἰτίαν ἔχειν (except in Pl. Phaedo 101 c, where it means 'have you, i.e. do you know,

ἵνα μὴ πάντα ἅμα συνταράξας λέγω, λαβέ μοι τὰς τῶν γειτόνων μαρτυρίας.

## ΜΑΡΤΥΡΙΑΙ.

- 22 Οὐκοῦν δεινὸν, ὃ ἄνδρες δικασταί, τούτους μὲν μηδὲν ἐγκαλεῖν μοι τοσαῦτα βεβλαμμένους, μηδ' ἄλλον 1278 μηδένα τῶν ἡτυχηκότων, ἀλλὰ τὴν τύχην στέργειν, τουτοῦ δὲ συκοφαντεῖν; ὃν ὅτι μὲν αὐτὸς ἐξημάρτηκε πρῶτον μὲν τὴν ὁδὸν στενωτέραν<sup>†</sup> ποιήσας, ἐξαγαγὼν

<sup>†</sup> στενωτέραν Ζ.

any cause?) is nearly equivalent to δόξαν ἔχειν 'to have the reputation (i.e. either the credit or the imputation) of...' It occurs in the better sense 'to have the credit of' in Isocr. *de pace* § 138 τούτων τῶν ἀγαθῶν τὴν αἰτίαν ἔχομεν. The worse sense 'to incur an imputation' (as here) is far more common (e.g. Lysias Or. 22 § 18, 10 § 28, 13 § 62). Both meanings are combined in Thuc. I. 83, 8 τῶν ἀποβαινόντων τὸ πλέον ἐπ' ἀμφοτέρω αἰτίας ἔχομεν (note on Isocr. *Paneg.* § 109).

§ 22. The plaintiff has himself done wrong by advancing his wall and thus narrowing the road, and by shooting his rubbish on to the road and thus raising its level.

22. δεινόν, τούτους μὲν μηδὲν ἐγκαλεῖν... τουτοῦ δὲ συκοφαντεῖν.] The clause containing μὲν is coordinate with that containing δὲ, but in English must be subordinate to it. 'Is it not atrocious, that, while my neighbours make no complaint..., the plaintiff brings a vexatious action against me?' The influence of δεινόν affects the second clause in its contrast with the first. Dem. *Lept.* § 9 πῶς γὰρ οὐκ ἀσχαρὸν κατὰ μὲν τὴν ἀγορὰν

ἀψευδεῖν νόμον γεγράφθαι... ἐν δὲ τῷ κουνῷ μὴ χρῆσθαι τῷ νόμῳ τούτῳ (Isocr. *ad Dem.* § 11 n. Madvig *Gr. Synt.* § 189 a, Cicero II. Phil. § 110 l. 6 ed. Mayor, n.).

τὴν τύχην στέργειν.] στέργειν, in the sense of contented submission, usually has the dative with or without *ἐν*, e.g. Isocr. *de pace* § 6 στέργειν τοῖς παροῦσι. The acc. however occurs again in § 30 *infra*, also in Hdt. IX. 17 ἔσπεραν τὰ παρόντα, Eur. *Phoen.* 1685 τὰμ' ἐγὼ στέρξω κακά, Soph. *Ant.* 292, and Isocr. *ad Dem.* § 29 στέργει μὲν τὰ παρόντα ζῆται δὲ τὰ βέλτιστα.

δν.] δν εἰσεσθε σαφέστερον... ὅτι αὐτὸς ἐξημάρτηκε. The subject of the subordinate here becomes the accusative of the principal sentence, and all the words down to συμβέβηκεν inclusive form an object-sentence to the principal verb εἰσεσθε. Lysias, Or. 20 § 34 οὗ οὐκ ὁπῶς ἐστε ἐπε ἀγαθοὶ ἐστε κακοὶ... γενήσονται (Madvig, *Gr. Synt.* § 191. Kühner § 600 p. 1083).

στενωτέραν. The old Greek grammarians (e.g. Choeroboscus) state that στενός (*Ionie* στενός) and κενός have *o*, not *ω*, in the comparative and superlative (cf. *Ionie* στενωτέρος).

ἔξω τὴν αἵμασιαν, ἵνα τὰ δένδρα τῆς ὁδοῦ ποιήσειεν εἴσω, ἔπειτα δὲ τὸν χλῆδον ἐκβαλὼν<sup>23</sup> εἰς τὴν ἰδὸν, ἐξ ὧν ὑψηλότεραν τὴν ὁδὸν καὶ στενωτέραν<sup>24</sup> πεποιήσθαι συμβέβηκεν, ἐκ τῶν μαρτυριῶν αὐτίκ' εἴσεσθε σαφέστερον, ὅτι δ' οὐδὲν ἀπολωλεκὼς οὐδὲ καταβεβλαμμένος ἄξιον λόγου τηλικαύτην μοι δίκην εἴληχε, τοῦθ' ὑμᾶς ἤδη πειράσομαι διδάσκειν. τῆς γὰρ μη-

<sup>23</sup> Bekker st. cum γρ. Ff et Harpocrat. p. 184, 14. cf. § 27. ἐμβαλὼν Z et Bekk. (Berlin).

But the forms in *ω* have better authority than those grammarians supposed (Kühner i § 154 anm. 2).

ἐξαγαγὼν...] 'by advancing—carrying-out—his wall beyond the boundary.' Thuc. i. 98 μέζων ὁ περίβολος πανταχὴ ἐξήχθη τῆς πόλεως. § 27 *infra*, αἵμασιαν προαγαγόντες κ.τ.λ.

ἴν—εἴσω] Not 'to get his trees within the road' (C.R.K.) but 'to take in, enclose, the trees of the road.' A thrust at the *πλευρεῖα* of the plaintiff.

(1) *Lego* τὰ δένδρα τὰ τῆς ὁδοῦ ποιήσειεν εἴσω, *scil.* τῆς αἵμασιās.

—(2) *Imo deleta glossa lege* τὰ δένδρα ποιήσειεν εἴσω. Dobree.

χλῆδον] 'rubbish'; the word is only found in § 27 and in a fragment of Aeschylus quoted below. Harpocrations. v. χλῆδον· Δημοσθένης ἐν τῷ πρὸς Καλλικλέα περὶ χωρίου βλάβῃ· ἔπειτα δὲ τὸν χλῆδον ἐκβαλὼν ἐξ ὧν ὑψηλότεραν καὶ στενωτέραν τὴν αὐτὴν ὁδὸν πεποιήσθαι συμβέβηκεν. πᾶν πλῆθος χλῆδος λέγεται καὶ ἐστὶν οἷον σωρὸς τις, μάλιστα δὲ τῶν ἀποκαθαρμάτων τε καὶ ἀποψημάτων, καὶ ἡ τῶν ποταμῶν πρόσχωσις, καὶ πολὺ μᾶλλον τῶν χειμάρρων ὃ καὶ χέραδος καλεῖται (Iliad xxi. 319). νῦν δὲ ἔοικεν ὁ ρήτωρ λέγειν ὅτι τοῦν καὶ φρυγανώδη τινα ἐκ τοῦ χωρίου σωρὸν ὃ Καλλικλῆς εἰς τὴν ὁδὸν

ἐμβέβηκεν, ὡς καὶ αὐτὸς ἐξῆς ὑποσημαίνει. κέχρηται δὲ τῷ ὀνόματι πολλοί. Διοσχύλος Ἀρχαίοις "καὶ παλὰ ἀγκυλιτὰ καὶ χλῆδον βαλὼν" (fr. 14). Bekker's *Anecd. Gr.* 815 ὁ κλῆρος τῶν ἀποκαθαρμάτων, ὃ ἔχων ἴδων τινα καὶ βοτανώδη καὶ φρυγανώδη. Hesychius χλῆδος· ὃ σωρὸς τῶν λίθων. [The article shews that χλῆδον does not here mean rubbish generally, but the soil or gravel thrown up from altering the fences. P.]

ἐξ ὧν.] The pl. refers to ἐξαγαγὼν... αἵμασιαν and χλῆδον ἐκβαλὼν. The first adjective ὑψηλότεραν is explained by the latter, the second στενωτέραν by the former:—one of the many forms of *χiasmós* or 'introverted parallelism.' This enables the speaker to put his main point in the most emphatic positions (first and last) and the subordinate point between them (note on Isocr. *ad Dem.* § 7, *Paneg.* § 54).—αὐτίκα, *sc.* at the end of § 27.—τηλικαύτην δίκην. Cf. § 25 χιλίων δραχμῶν δίκην.

§§ 23—25. The actual loss sustained was very trifling, as I know on good authority; and as for the old wall which he makes out he was compelled to repair, that must not be put to my account, as the wall neither fell down nor incurred any damage.

- τὸς τῆς ἐμῆς χρωμένης τῇ τούτων μητρὶ πρὶν τού-  
τους ἐπιχειρήσαι με συκοφαντεῖν, καὶ πρὸς ἀλλήλας  
ἀφικνουμένων, οἷον εἰκὸς ἅμα μὲν ἀμφοτέρων οἰκου-  
σῶν ἐν ἀγρῷ καὶ γειτνιωσῶν, ἅμα δὲ τῶν ἀνδρῶν  
24 χρωμένον ἀλλήλοις ἕως ἔξω, ἐλθούσης δὲ τῆς ἐμῆς  
μητρὸς ὡς τὴν τούτων καὶ ἀποδυραμένης ἐκείνης τὰ  
συμβάντα καὶ δεικνυούσης, οὕτως ἐπυθόμεθα πάντα  
ἡμεῖς, ὧ ἀνδρες δικασταί· καὶ λέγω μὲν ἅπερ ἤκουσα  
τῆς μητρὸς, οὕτω μοι<sup>ι</sup> πολλὰ ἀγαθὰ γένοιτο, εἰ δὲ  
ψεύδομαι, τάναντία τούτων· ἢ μὴν ὄραν καὶ τῆς τού-  
των μητρὸς ἀκούειν ἔφη κριθῶν μὲν βρεχθῆναι, καὶ  
ξηραίνομένους ἰδεῖν αὐτὴν<sup>α</sup>, μῆδὲ τρεῖς μεδίμνους,  
ἀλεύρων δ' ὡς ἡμιμέδιμνον· ἐλαίου δ' ἀποκλιθῆναι  
μὲν κεράμιον φάσκειν, οὐ μέντοι παθεῖν γε<sup>ν</sup> οὐδέν.  
25 τοσαῦτα, ὧ ἀνδρες δικασταί, τὰ συμβάντ' ἦν τούτοις,  
ἀνθ' ὧν ἐγὼ χιλίων δραχμῶν δίκην ἀτίμητον φεύγω.

<sup>ι</sup> Bekk.

οὕτως ἐμοὶ Z cum FZΦB.

<sup>α</sup> Bekk.

αὐτὴν Z cum G. H. Schaefer.

<sup>ν</sup> Bekk.

μέντοι γε Z cum Σ.

23. χρωμένης...μητρὶ.] 'intimate with.' Dem. Or. 29 § 15 'Ἀφόβῳ χρώμενον, Or. 83 (Apat.) § 7, Or. 85 (Laorit.) § 6, ἐπιτήδαιοι μοὶ εἰσι καὶ χρώμεθ' ἀλλήλοις.—τῶν ἀνδρῶν, 'their husbands.'

24. ἐκείνης] so. τῆς τούτων μητρὸς.

οὕτω—γένοιτο.] Ter. Eun. iv. 1, 1 ita me dii bene ament. Prop. i. 7, 3 ita sim felix. Cic. ad Att. v. 15 ita vivam.

τάναντία.] a kind of euphemism for πολλὰ κακὰ. So also Soph. Phil. 503, παθεῖν μὲν εὐ παθεῖν δὲ θάτερα.

κριθῶν—παθεῖν γε οὐδέν.] Quoted by Aristides (ii. 544 Spengel Rhet. Gr.) ἐνίοτε δὲ ἡ μὲν ἔννοια ἀφελῆς ἐστίν, ἢ δὲ ἀπαγγελία πολιτικῇ, ὡς καὶ ἐν τῷ πρὸς

Καλλικλέα δὲ Δημοσθένος, κριθῶν μὲν—παθεῖν γε οὐδέν. καὶ τοῦτο δὲ μετὰ σεμνότητος, ἔπου γε αὐτὸ τὸ κύριον λεχθὲν κινδυνεύει εὐτέλειαν ποιῆσαι, ὥσπερ εἰ ἔλεγες, οὐ μέντοι ἐκχυθῆναι γε, ἐνταῦθα ὁ δὲ ἀντὶ τοῦ κυρίου καὶ τοῦ κατ' εἶδος, ἐν γένει μεταβαλὼν εἶπεν, οὐ μέντοι παθεῖν γε οὐδέν.

κριθῶν—μεδίμνους.] 'not even three medimni (or four and a half bushels) of barley.' The μεδίμνος=six ἐκτεῖς=six modii=about 12 gallons, or a bushel and a half.—κεράμιον used like the Roman amphora as a liquid measure=about six gallons or two-thirds of the Greek ἀμφορέως (μετρητής).

§ 25. χιλίων δραχμῶν δίκην ἀτίμητον.] See note on § 18.

οὐ γὰρ δὴ τειχίον γ' εἰ<sup>ω</sup> παλαιὸν ἐπωκόδομησεν, ἐμοὶ  
καὶ τοῦτο λογιστέον ἐστίν, ὃ μὴτ' ἔπεσε μὴτ' ἄλλο  
δαινὸν μηδὲν ἔπαθεν. ὥστ' εἰ συνεχώρουν αὐτοῖς ἀπάν- 1279  
των αἷτιος εἶναι τῶν συμβεβηκότων, τά γε βρεχθέντα  
26 ταῦτ' ἦν. ὅποτε δὲ μὴτε ἐξ ἀρχῆς ὁ πατήρ ἡδίκηκε τὸ  
χωρίον περιοικοδομῶν, μὴθ' οὗτοι πώποτε ἐνεκάλεσαν  
τοσούτου χρόνου διελθόντος, οἳ τ' ἄλλοι πολλὰ καὶ  
δαινὰ πεπονθότες μηδὲν μᾶλλον ἐγκαλοῦσιν ἐμοί, πάν-  
τες τε ὑμεῖς τὸ ἐκ τῶν οἰκιῶν καὶ τὸ ἐκ τῶν χωρίων  
ὑδωρ εἰς τὴν ὁδὸν ἐξάγειν εἰώθατε, ἀλλ' οὐ μὰ Δι'  
εἴσω τὸ ἐκ τῆς ὁδοῦ δέχεσθαι, τί δεῖ πλείω λέγειν; οὐδὲ  
γὰρ ἐκ τούτων ἀδηλον ὅτι φανερώς συκοφαντοῦμαι,  
27 οὐτ' ἀδικῶν οὐδὲν οὔτε βεβλαμμένων ἃ φασιν. ἵνα  
δ' εἰδῆτε ὅτι καὶ τὸν χλῆδον εἰς τὴν ὁδὸν ἐκβεβλήκασι<sup>χ</sup>  
καὶ τὴν αἵμασιαν προαγαγόντες στενωτέραν<sup>γ</sup> τὴν ὁδὸν  
πεποιήκασιν, ἔτι δ' ὥς ὄρκον ἐδίδουν ἐγὼ τῇ τούτων  
μητρὶ καὶ τὴν ἔμμαντοῦ τὸν αὐτὸν ὁμόσαι προὔκαλού-  
μην, λαβέ μοι τὰς τε μαρτυρίας καὶ τὴν πρόκλησιν.

## ΜΑΡΤΥΡΙΑΙ. ΠΡΟΚΛΗΣΙΣ.

28 Εἴτα τούτων ἀναισχυντότεροι γέγονιντ' ἂν ἄνθρω-

<sup>ω</sup> Bekk. et corr. Σ. εἰ τειχίον Σ. τειχίον pr. Σ. τειχίον γε γ.  
τειχίον εἰ FB.

<sup>χ</sup> Z et Bekk. εἰ ἐμβεβλήκασι Bekk. (Berlin).

<sup>γ</sup> στενωτ. Z.

ἐπωκόδομῃσεν] (cf. ἐπισκευά-  
ζειν) refers to repairing the old  
wall.

ὃ μὴτ' ἔπεσε.] 'if the wall  
neither fell nor incurred any  
damage whatsoever.' ὃ μὴτε...  
would in Latin be represented  
by *quod nec cecidisset nec...*

§§ 26, 27. Summary of pre-  
vious arguments, and calling of  
witnesses.

26. οἳ τ' ἄλλοι—ἐμοί.] Cf. §  
21 πολλῶν πολλὰ...βεβλαμμένων  
—πάντες—εἰώθατε. See § 17  
init.

ὅτε βεβλαμμένων ἃ φασιν.] βε-  
βλαμμένων, not neuter, but  
masc. 'they have not incurred  
the damage they allege.' § 21  
πολλῶν πολλὰ καὶ μεγάλα βε-  
βλαμμένων.

27. χλῆδον.] See note on § 22.  
ὄρκον ἐδίδουν.] 'offered an oath'  
in the sense of 'proposed to  
administer an oath.' On ὄρκον  
διδόναι καὶ λαμβάνειν, see esp.  
Arist. Rhet. i. 15 §§ 27—33.

§§ 28—30. My opponents, after  
having themselves advanced their  
wall and raised the road's level,

ποι ἢ περιφανέστερον συκοφαντοῦντες, οἵτινες αὐτοὶ τὴν αἵμασιαν προαγαγόντες καὶ τὴν ὁδὸν ἀνακεχωκότες ἐτέροις βλάβης δικάζονται, καὶ ταῦτα χιλίων δραχμῶν ἀτίμητον, οἳ γ' οὐδὲ πεντήκοντα δραχμῶν τὸ παράπαν ἅπαντα ἀπολωλέκασιν; καίτοι σκοπεῖτ', ὧ ἄνδρες δικασταί, πόσους ὑπὸ τῶν ὑδάτων ἐν τοῖς ἄγροισι βεβλάφθαι συμβέβηκε, τὰ μὲν Ἐλευσίνι, τὰ δ' ἐν τοῖς ἄλλοις τόποις. ἀλλ' οὐ δήπου τούτων, ὧ γῇ καὶ θεοί, παρὰ τῶν γειτόνων ἕκαστος ἀξιώσει τὰς  
 29 βλάβας κομίζεσθαι, καὶ ἐγὼ μὲν, ὃν προσῆκεν ἀγανακτεῖν τῆς ὁδοῦ στενοτέρας<sup>1</sup> καὶ μετεωροτέρας γεγενημένης<sup>2</sup>, ἡσυχίαν ἔχω· τούτοις δὲ τοσοῦτον περίεστιν,

γεγενημένης καὶ μετεωροτέρας Z.

are most shamelessly suing the very victims of their own wrong, for a penalty of a thousand drachmae, while their own loss is less than fifty.

If the plaintiff may enclose his land, we may enclose ours. If my father wronged you, by enclosing, you are just as much wronging me, for if you dam off the water, it will be swept back on my own property and will throw down my wall. But I am not going to complain; I shall simply do my best to protect my land from such an incursion. The plaintiff shews his prudence in protecting his own property; but in prosecuting me, he only shews his villany and his infatuation.

28. ἀνακεχωκότες.] Cf. § 22 ὑψηλοτέραν τὴν ὁδὸν... πεποιῆσθαι συμβέβηκεν.

Ἐλευσίνι.] Commonly without ἐν. So also Μαραθῶνι and other localities of Attic demes. Cobet. var. lect. p. 69, 201 and nov. lect. p. 96, 96.

<sup>1</sup> Eleusis was subject to ... oc-

casional encroachments from the river Cephissus, which—although for the greater part of the year quite dry, or finding its way to the sea in three or four slender rills, almost lost in a gravelly bed—sometimes descends from the mountains with such impetuosity as to spread itself over a wide extent of the plain, damaging the lands and buildings.' Leake's *Demi of Attica*, p. 164.

τὰς βλάβας κομίζεσθαι.] 'to recover the damages.'—μετεωροτέρας=ὑψηλοτέρας, cf. § 22.

§ 29. περίεστιν.] More commonly with a genitive: but cf. Mid. § 17, οὐδ' ἐνταῦθ' ἔσθῃ τῆς ὕβρεως, ἀλλὰ τοσοῦτον αὐτῷ περιῆν ὥστε τὸν.. ἄρχοντα διέφθειρε.

[τοσοῦτον, i.e. ἀναισχυντίας (or συκοφαντίας), to be supplied from ἀναισχυντότεροι (ἢ περιφανέστερον συκοφαντοῦντες) above, in § 28.—περίεστιν, i.e. ἐκ περιουσίας ἔχουσιν. P.] L. and S. less well explain it; 'So far are matters come with them that....'

ὡς ἔοικεν, ὥστε τοὺς ἡδικομημένους πρὸς συκοφαντοῦσιν<sup>α</sup>: 1280  
καίτοι, ὦ Καλλίκλεις, εἰ καὶ ὑμῖν περιοικοδομεῖν  
ἔξεστι τὸ ὑμέτερον αὐτῶν χωρίον, καὶ ἡμῖν δῆπου τὸ  
ἡμέτερον ἐξήν. εἰ δ' ὁ πατήρ ὁ ἐμὸς ἡδίκηε περιοικο-  
δομῶν ὑμᾶς, καὶ νῦν ὑμεῖς ἐμὲ ἀδικεῖτε περιοικοδομοῦν-

30 τες οὕτως· δῆλον γὰρ ὅτι μεγάλοις λίθοις ἀποικο-  
δομηθέντος πάλιν τὸ ὕδωρ εἰς τὸ ἐμὸν ἤξει χωρίον, εἴθ'  
ὅταν τύχη καταβαλεῖ τὴν αἵμασιαν ἀπροσδοκῆτως.  
ἀλλ' οὐδὲν μᾶλλον ἐγκαλῶ τούτοις ἐγὼ διὰ τοῦτο,  
ἀλλὰ στέργω τὴν τύχην καὶ τὰμαυτοῦ φυλάττειν  
πειράσομαι. καὶ γὰρ τοῦτον φράττοντα μὲν τὰ  
ἑαυτοῦ σωφρονεῖν ἡγοῦμαι, δικαζόμενον δέ μοι πονηρό-  
τατίν τ' εἶναι καὶ διεφθαρμένον ὑπὸ νόσου νομίζω.

31 Μὴ θαυμάζετε δ', ὦ ἄνδρες δικασταί, τὴν τοῦτον  
προθυμίαν, μῆδ' εἰ τὰ ψευδῇ κατηγορεῖν νῦν<sup>β</sup> τετόλμη-

<sup>α</sup> πρὸς συκοφαντοῦσιν Z.

<sup>β</sup> Bekk. (Berlin). κατηγορεῖν Z et Bekker st. μαρτυρεῖν FΣΦB.

πρὸς συκοφαντοῦσιν.] Cf. *An-  
droi.* § 75 τοσοῦτ' ἀπέχει τοῦ  
τιμῆς τινός...τυχεῖν ὥστ' ἀπειλό-  
καλος πρὸς ἔδοξεν εἶναι. Or. 37  
§ 49 n.

καὶ ὑμῖν...καὶ ἡμῖν.] This  
idiomatic repetition of καὶ can-  
not be literally rendered in  
English.

περιοικοδομῶν .....-δομοῦντες.]  
*Posses παρικοδο. bis: sed cave  
facias. construe ἡδίκηε ὑμᾶς περι-  
οικοδομῶν 'by hedging in' etc.*  
Dobree.

30. ἀποικοδομηθέντος.] Geni-  
tive neuter absolute. We can-  
not understand either τοῦ ὕδατος  
or τοῦ χωρίου. *Malim ἀποικοδο-  
μηθέν, says Dobree.—στέργω, see*  
§ 22.

διεφθαρμένον ὑπὸ νόσου.] 'Blind-  
ly infatuated,' 'having his judg-  
ment (or reason) impaired by  
some malady,' contrasted with  
σωφρονεῖν in the previous clause.

§§ 31, 32. *The plaintiff's as-  
surance in bringing false charges  
against me is only of a piece with  
his producing a forged document  
on a former occasion, when he  
prompted his cousin to claim my  
land. Apart from this, simply to  
spite me (§ 34), he has brought  
the same charge against my ser-  
vant, Callarus, as against myself,  
though the servant could not have  
enclosed the land on his own re-  
sponsibility.*

*Their interested motive is  
proved by the fact that, if I let  
them have my property, by pur-  
chase or exchange, then Callarus  
is at once held to be doing them  
no wrong; if I refuse, they make  
themselves out to be grievously  
wronged by him, and try to get  
an award or a compromise which  
will secure them my estate.*

31. μὴ θαυμάζετε...εἰ.] *Good-  
win's Moods and Tenses, § 56.*

κεν. καὶ γὰρ τὸ πρότερον πείσας τὸν ἀνεψιὸν ἀμφισβητεῖν μοι τοῦ χωρίου συνθήκας οὐ γενομένας ἀπήνεγκε, καὶ νῦν αὐτὸς ἐρήμην μου καταδεδιήτηται τοιαύτην ἐτέραν δίκην, Κάλλαρὸν ἐπιγραφάμενος τῶν ἐμῶν δούλων. πρὸς γὰρ τοῖς ἄλλοις κακοῖς καὶ τοῦτο εὔρηται σόφισμα· Καλλάρῳ τὴν αὐτὴν δίκην 32 δικάζονται. καίτοι τίς ἂν οἰκέτης τὸ τοῦ δεσπότου χωρίον περιοικοδομήσειε μὴ προστάξαντος τοῦ δεσπότου; Καλλάρῳ δ' ἕτερον ἐγκαλεῖν οὐδὲν ἔχοντες, ὑπὲρ ὧν ὁ πατήρ πλέον ἢ πεντεκαίδεκα ἔτη φράξας ἐπεβίω δικάζονται. κἂν μὲν ἐγὼ τῶν χωρίων ἀποστῶ τοῦτοις ἀποδόμενος ἢ πρὸς ἕτερα χωρία ἀλλαξάμενος, οὐδὲν ἀδικεῖ Κάλλαρὸς· ἂν δ' ἐγὼ μὴ βούλωμαι τάμαυτοῦ 1281 τοῦτοις προέσθαι, πάντα τὰ δεινότατα ὑπὸ Καλλάρου πάσχουσιν οὗτοι, καὶ ζητοῦσι καὶ διαιτητὴν ὅστις αὐτοῖς τὰ χωρία προσκαταγνώσεται, καὶ διαλύσεις 33 τοιαύτας ἐξ ὧν τὰ χωρία ἔξουσιν. εἰ μὲν οὖν, ὦ ἄνδρες δικασταί, τοὺς ἐπιβουλεύοντας καὶ συκοφαντοῦντας δεῖ πλέον ἔχειν, οὐδὲν ἂν ὄφελος εἴη τῶν εἰρημένων· εἰ δ' ὑμεῖς τοὺς μὲν τοιούτους μισεῖτε, τὰ δὲ δίκαια

συνθήκας οὐ γενομένας ἀπήνεγκε.] 'put in (or, 'made a return of') false documents, forged contracts that had never been really made.' This is the σκενωρία alluded to in § 2.

ἐρήμην...καταδεδιήτηται. See § 2.

ἐπιγραφάμενος.] Having entered on the indictment the name of Callarus, one of my slaves; [for the same action could not be brought twice in the same name. P.]

For another use of ἐπιγράφειν cf. Or. 54 § 31.

32. ὑπὲρ ὧν κ.τ.λ.] = δικάζονται ὑπὲρ τούτων ἃ ἐφράξεν ὁ πατήρ καὶ πλέον ἢ πενήκοντα ἔτη ἐπεβίω. See esp. notes on Or.

45 § 27, ὧν διεφθάρκει and § 68, ἃ πέπλασται.

διαιτητὴν ὅστις...προσκαταγνώσεται.] an arbitrator who shall actually (go so far as to) adjudge their property to them; give a verdict of condemnation adjudging the property to them.

διαλύσεις.] 'compromises,' 'settlements.'

§§ 33, 34. Now if conspiracy and paltry persecution are to win the day, my words are merely wasted; but if you detest such conduct and intend to give a just verdict on the ground that neither my father nor my servant has done any damage or wrong to the plaintiff, then I have already said enough.



ψηφίζεσθε, μήτ' ἀπολωλεκτός Καλλικλέους μηδὲν  
 μήτ' ἡδικημένου μήθ' ὑπὸ Καλλάρου μήθ' ὑπὸ τοῦ  
 34 πατρὸς, οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν. ἵνα δ' εἰδῆτε  
 ὅτι καὶ πρότερον ἐπιβουλεύων μου τοῖς χωρίοις τὸν  
 ἀνεψιὸν κατεσκεύασε, καὶ νῦν τὴν ἐτέραν αὐτὸς κατε-  
 διητήσατο Καλλάρου ταύτην τὴν δίκην, ἐπηρεάζων  
 ἐμοὶ διότι τὸν ἄνθρωπον περὶ πολλοῦ ποιούμεαι, καὶ  
 Καλλάρῳ πάλιν εἵληχεν ἐτέραν, ἀπάντων ὑμῖν  
 ἀναγνώσεται τὰς μαρτυρίας.

## ΜΑΡΤΥΡΙΑΙ.

35 Μὴ οὖν πρὸς Διὸς καὶ θεῶν, ὧ ἄνδρες δικασταί,  
 προῆσθέ με τούτοις μηδὲν ἀδικοῦντα. οὐ γὰρ τῆς ζη-  
 μίας τοσοῦτόν τί μοι μέλει, χαλεπὸν ὃν πᾶσι τοῖς  
 μικρὰν οὐσίαν ἔχουσιν· ἀλλ' ἐκβάλλουσιν ὅλως ἐκ  
 τοῦ δήμου με ἐλαύνοντες καὶ συκοφαντοῦντες. ὅτι δ'  
 οὐκ ἀδικοῦμεν οὐδὲν, ἔτοιμοι μὲν ἦμεν ἐπιτρέπειν τοῖς  
 εἰδόσιν, ἴσοις καὶ κοινοῖς, ἔτοιμοι δ' ὀμνῆναι τὸν  
 νόμιμον ὄρκον· ταῦτα γὰρ ῥόμεθα ἰσχυρότατα παρα-

§ 35. Lastly, I entreat the jury not to sacrifice me to my opponents, when I have done them no wrong. It is not so much the penalty that I care for, hard though that is for a poor man to pay; but they want to turn me out of the parish by their petty persecution. To prove we were in the right, we were ready to submit to a fair arbitration, and to swear the customary oath; for we felt that that would be the strongest argument with you, gentlemen, who are yourselves upon your solemn oath.

35. χαλεπὸν ὃν] so. τὸ ζημιουῖσθαι. Hard though it falls on those whose property is but small.

ἐλαύνοντες καὶ συκοφαντοῦντες] by their persecution and petty litigation.

ἔτοιμοι μὲν...ἔτοιμοι δέ.] § 20 ἔβλαψε μὲν...ἔβλαψε δέ.

τοῖς εἰδόσιν, ἴσοις καὶ κοινοῖς.] 'impartial, fair and unbiassed persons, acquainted with the facts.' § 9 τοῖς εἰδόσι...τοῖς ἴσοις.

τὸν νόμιμον ὄρκον.] The defendant appears to have offered to take an oath in the ἀνθρωμοσία at the ἀνδκρίσις, or preliminary examination. Such an oath might be taken by either of the parties, with a view to decide the cause, or some particular point in dispute. But it was only taken by the consent of the adversary, upon a challenge

σχέσθαι τοῖς αὐτοῖς ὑμῖν ὁμωμοκόσιν. καὶ μοι λαβὲ  
τὴν τε πρόκλησιν καὶ τὰς ὑπολοίπους ἔτι μαρτυρίας.

### ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

given and accepted (C. R. K. in  
*Dict. Antiq.*). Cf. Or. 54 § 40,  
ἠθέλησα ὁμῶσαι παντί. Aristot.  
*Rhet.* i. 15 §§ 27—33.

παρασχέσθαι.] *Malim παρέξε-*  
*σθαι. vel, quandoquidem παρα-*  
*σχέσθαι dat ms, possis ισχυρότατ'*

ἀν παρασχέσθαι. Dobree.

τοῖς αὐτοῖς ὑμῖν ὁμωμοκόσι.] 'to  
you who are yourselves on oath'  
'vobis iudicibus qui et ipsi  
iurastis.' Seager *Classical Jour-*  
*nal* 1825, no. 61 p. 63.

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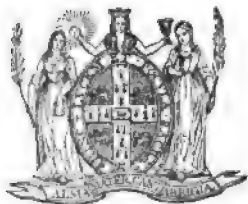
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